

13-501. Persons under eighteen years of age; felony charging; definitions

A. The county attorney shall bring a criminal prosecution against a juvenile in the same manner as an adult if the juvenile is fifteen, sixteen or seventeen years of age and is accused of any of the following offenses:

1. First degree murder in violation of section 13-1105.
2. Second degree murder in violation of section 13-1104.
3. Forcible sexual assault in violation of section 13-1406.
4. Armed robbery in violation of section 13-1904.
5. Any other violent felony offense.
6. Any felony offense committed by a chronic felony offender.
7. Any offense that is properly joined to an offense listed in this subsection.

B. Except as provided in subsection A of this section, the county attorney may bring a criminal prosecution against a juvenile in the same manner as an adult if the juvenile is at least fourteen years of age and is accused of any of the following offenses:

1. A class 1 felony.
2. A class 2 felony.
3. A class 3 felony in violation of any offense in chapters 10 through 17 or chapter 19 or 23 of this title.
4. A class 3, 4, 5 or 6 felony involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument.
5. Any felony offense committed by a chronic felony offender.
6. Any offense that is properly joined to an offense listed in this subsection.

C. A criminal prosecution shall be brought against a juvenile in the same manner as an adult if the juvenile has been accused of a criminal offense and has a historical prior felony conviction.

D. At the time the county attorney files a complaint or indictment the county attorney shall file a notice stating that the juvenile is a chronic felony offender. Subject to subsection E of this section, the notice shall establish and confer jurisdiction over the juvenile as a chronic felony offender.

E. Upon motion of the juvenile the court shall hold a hearing after arraignment and before trial to determine if a juvenile is a chronic felony offender. At the hearing the state shall prove by a preponderance of the evidence that the juvenile is a chronic felony offender. If the court does not find that the juvenile is a chronic felony offender, the court shall transfer the juvenile to the juvenile court pursuant to section 8-302. If the court finds that the juvenile is a chronic felony offender or if the juvenile does not file a motion to determine if the juvenile is a chronic felony offender, the criminal prosecution shall continue.

F. Except as provided in section 13-921, a person who is charged pursuant to this section shall be sentenced in the criminal court in the same manner as an adult for any offense for which the person is convicted.

G. For the purposes of this section:

1. "Accused" means a juvenile against whom a complaint, information or indictment is filed.
2. "Chronic felony offender" means a juvenile who has had two prior and separate adjudications and dispositions for conduct that would constitute a historical prior felony conviction if the juvenile had been tried as an adult.

3. "Forcible sexual assault" means sexual assault pursuant to section 13-1406 that is committed without consent as defined in section 13-1401, paragraph 4, subdivision (a).
4. "Historical prior felony conviction" has the same meaning prescribed in section 13-604.
5. "Other violent felony offense" means:
 - (a) Aggravated assault pursuant to section 13-1204, subsection A, paragraph 1.
 - (b) Aggravated assault pursuant to section 13-1204, subsection A, paragraph 2 involving the use of a deadly weapon.
 - (c) Drive by shooting pursuant to section 13-1209.
 - (d) Discharging a firearm at a structure pursuant to section 13-1211.

13-604. Dangerous and repetitive offenders; definitions

A. Except as provided in subsection F, G or H of this section or section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 4, 5 or 6 felony, whether a completed or preparatory offense, and who has a historical prior felony conviction shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 4	3 years	4.5 years	6 years
Class 5	1.5 years	2.25 years	3 years
Class 6	1 year	1.75 years	2.25 years

B. Except as provided in subsection I, J or K of this section or section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 2 or 3 felony, whether a completed or preparatory offense, and who has a historical prior felony conviction shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 2	6 years	9.25 years	18.5 years
Class 3	4.5 years	6.5 years	13 years

C. Except as provided in subsection F, G, H or S of this section or section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 4, 5 or 6 felony, whether a completed or preparatory offense, and who has two or more historical prior felony convictions shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 4	8 years	10 years	12 years
Class 5	4 years	5 years	6 years
Class 6	3 years	3.75 years	4.5 years

D. Except as provided in subsection I, J, K or S of this section or section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 2 or 3 felony, and who has two or more historical prior felony convictions, shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 2	14 years	15.75 years	28 years
Class 3	10 years	11.25 years	20 years

E. A person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of any misdemeanor or petty offense, other than a traffic offense, and who has been convicted of one or more of the same misdemeanors or petty offenses within two years next preceding the date of the present offense shall be sentenced for the next higher class of offense than that for which such person currently stands convicted.

F. Except as provided in section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 4, 5 or 6 felony involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument without having previously been convicted of any felony shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 4	4 years	6 years	8 years
Class 5	2 years	3 years	4 years
Class 6	1.5 years	2.25 years	3 years

G. Except as provided in section 13-604.01, upon conviction of a class 4, 5 or 6 felony involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument a person who has a historical prior felony conviction involving the intentional or knowing infliction of serious physical injury or the use or exhibition of a deadly weapon or dangerous instrument shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
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Class 4	8 years	10 years	12 years
Class 5	4 years	5 years	6 years
Class 6	3 years	3.75 years	4.5 years

H. Except as provided in subsection S of this section or section 13-604.01, upon conviction of a class 4, 5 or 6 felony involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument a person who has two or more historical prior felony convictions involving the intentional or knowing infliction of serious physical injury or the use or exhibition of a deadly weapon or dangerous instrument shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 4	12 years	14 years	16 years
Class 5	6 years	7 years	8 years
Class 6	4.5 years	5.25 years	6 years

I. Except as provided in section 13-604.01, upon a first conviction of a class 2 or 3 felony involving discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or upon conviction of a class 2 or 3 felony when the intentional or knowing infliction of serious physical injury upon another has occurred, the defendant shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 2	7 years	10.5 years	21 years
Class 3	5 years	7.5 years	15 years

J. Except as provided in section 13-604.01, upon conviction of a class 2 or 3 felony involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury upon another, a person who has a historical prior felony conviction that is a class 1, 2 or 3 felony involving the use or exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury on another shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 2	14 years	15.75 years	28 years
Class 3	10 years	11.25 years	20 years

K. Except as provided in subsection S of this section or section 13-604.01, upon conviction for a class 2 or 3 felony involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury upon another, a person who has two or more historical prior felony convictions that are class 1, 2 or 3 felonies involving the use or exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury on another shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 2	21 years	28 years	35 years
Class 3	15 years	20 years	25 years

L. For the purposes of subsections I, J and K of this section in determining the applicability of the penalties provided in this section for second or subsequent class 2 or 3 felonies, the conviction for any felony committed prior to October 1, 1978 which, if committed after October 1, 1978, could be a dangerous felony under this section may be designated by the state as a prior felony.

M. Convictions for two or more offenses committed on the same occasion shall be counted as only one conviction for purposes of this section.

N. A person who has been convicted in any court outside the jurisdiction of this state of an offense which if committed within this state would be punishable as a felony or misdemeanor is subject to the provisions of this section. A person who has been convicted as an adult of an offense punishable as a felony or a misdemeanor under the provisions of any prior code in this state shall be subject to the provisions of this section.

O. Time spent incarcerated within the two years next preceding the date of the offense for which a person is currently being sentenced under subsection E of this section shall not be included in the two years required to be free of convictions for purposes of that subsection.

P. The penalties prescribed by this section shall be substituted for the penalties otherwise authorized by law if the previous conviction or the allegation that the defendant committed a felony while released on bond or on the defendant's own recognizance or while escaped from preconviction custody as provided in subsection R of this section is charged in the indictment or information and admitted or found by the court or if the dangerous nature of the felony is charged in the indictment or information and admitted or found by the trier of fact. The release provisions prescribed by this section shall not be substituted for any penalties required by the substantive offense or provision of law that specifies a later release or completion of the sentence imposed prior to release. The court shall allow the allegation of a prior conviction, the dangerous nature of the felony or the allegation that the defendant committed a felony while released on bond or on the defendant's own recognizance or while escaped from preconviction custody at any time prior to the date the case is actually tried unless the allegation

is filed fewer than twenty days before the case is actually tried and the court finds on the record that the defendant was in fact prejudiced by the untimely filing and states the reasons for these findings, provided that when the allegation of a prior conviction is filed, the state must make available to the defendant a copy of any material or information obtained concerning the prior conviction. The charge of previous conviction or the allegation that the defendant committed a felony while released on bond or on the defendant's own recognizance or while escaped from preconviction custody shall not be read to the jury. For the purposes of this subsection, "dangerous nature of the felony" means a felony involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury upon another.

Q. Intentional failure by the court to impose the mandatory sentences or probation conditions provided in this title shall be deemed to be malfeasance.

R. A person who is convicted of committing any felony offense, which felony offense is committed while the person is released on bail or on the defendant's own recognizance on a separate felony offense or while the person is escaped from preconviction custody for a separate felony offense, shall be sentenced to a term of imprisonment two years longer than would otherwise be imposed for the felony offense committed while released on bond or on the defendant's own recognizance or while escaped from preconviction custody. The additional sentence imposed under this subsection is in addition to any enhanced punishment that may be applicable under any of the other subsections of this section. The defendant is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the two years are served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

S. A person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a serious offense except a drug offense, first degree murder or any dangerous crime against children, whether a completed or preparatory offense, and who has previously been convicted of two or more serious offenses not committed on the same occasion shall be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served not less than twenty-five years or the sentence is commuted.

T. A person who is convicted of committing any felony offense with the intent to promote, further or assist any criminal conduct by a criminal street gang shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive, minimum and maximum sentence for the offense shall be increased by three years. The additional sentence imposed pursuant to this subsection is in addition to any enhanced sentence that may be applicable.

U. A person who is convicted of intentionally or knowingly committing aggravated assault on a peace officer while the officer is engaged in the execution of any official duties pursuant to section 13-1204, subsection A, paragraph 1 or 2 shall be sentenced to imprisonment for not less than the presumptive sentence authorized under this chapter and is not eligible for suspension of sentence, commutation or release on any basis until the sentence imposed is served.

V. Except as provided in section 13-604.01 or 13-703, if the victim is an unborn child in the womb at any stage of its development, the defendant shall be sentenced pursuant to this section.

W. For the purposes of this section:

1. "Absconder" means a probationer who has moved from the probationer's primary place of residence without permission of the probation officer, who cannot be located within ninety days of the previous contact and against whom a petition to revoke has been filed in the superior court alleging that the probationer's whereabouts are unknown. A probationer is no longer deemed to be an absconder when voluntarily or involuntarily returned to probation service.

2. "Historical prior felony conviction" means:

(a) Any prior felony conviction for which the offense of conviction:

(i) Mandated a term of imprisonment except for a violation of chapter 34 of this title involving a drug below the threshold amount; or

(ii) Involved the intentional or knowing infliction of serious physical injury; or

(iii) Involved the use or exhibition of a deadly weapon or dangerous instrument; or

(iv) Involved the illegal control of a criminal enterprise; or

(v) Involved aggravated driving under the influence of intoxicating liquor or drugs, driving while under the influence of intoxicating liquor or drugs with a suspended, canceled, revoked or refused driver license or driving under the influence of intoxicating liquor or drugs with two or more driving under the influence of intoxicating liquor or drug convictions within a period of sixty months; or

(vi) Involved any dangerous crime against children as defined in section 13-604.01.

(b) Any class 2 or 3 felony, except the offenses listed in subdivision (a) of this paragraph, that was committed within the ten years immediately preceding the date of the present offense. Any time spent on absconder status while on probation or incarcerated is excluded in calculating if the offense was committed within the preceding ten years. If a court determines a person was not on absconder status while on probation that time is not excluded.

(c) Any class 4, 5 or 6 felony, except the offenses listed in subdivision (a) of this paragraph, that was committed within the five years immediately preceding the date of the present offense. Any time spent on absconder status while on probation or incarcerated is excluded in calculating if the offense was committed within the preceding five years. If a court determines a person was not on absconder status while on probation that time is not excluded.

(d) Any felony conviction that is a third or more prior felony conviction.

3. "Preconviction custody" means the confinement of a person in a jail in this state or another state after the person is arrested for or charged with a felony offense.

4. "Serious offense" means any of the following offenses if committed in this state or any offense committed outside this state which if committed in this state would constitute one of the following offenses:

(a) First degree murder.

(b) Second degree murder.

(c) Manslaughter.

(d) Aggravated assault resulting in serious physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument.

(e) Sexual assault.

(f) Any dangerous crime against children.

(g) Arson of an occupied structure.

(h) Armed robbery.

(i) Burglary in the first degree.

(j) Kidnapping.

(k) Sexual conduct with a minor under fifteen years of age.

5. "Substantive offense" means the felony, misdemeanor or petty offense that the trier of fact found beyond a reasonable doubt the defendant committed. Substantive offense does not include allegations that, if proven, would enhance the sentence of imprisonment or fine to which the defendant otherwise would be subject.

13-604.01. Dangerous crimes against children: sentences: definitions

A. A person who is at least eighteen years of age and who stands convicted of a dangerous crime against children in the first degree involving sexual assault of a minor who is twelve years of age or younger or sexual conduct with a minor who is twelve years of age or younger shall be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served thirty-five years or the sentence is commuted. This subsection does not apply to masturbatory contact.

B. Except as otherwise provided in this section, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a dangerous crime against children in the first degree involving attempted first degree murder of a minor who is under twelve years of age, second degree murder of a minor who is under twelve years of age, sexual assault of a minor who is under twelve years of age, sexual conduct with a minor who is under twelve years of age or manufacturing methamphetamine under circumstances that cause physical injury to a minor who is under twelve years of age may be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served thirty-five years or the sentence is commuted. If a life sentence is not imposed pursuant to this subsection, the person shall be sentenced to a presumptive term of imprisonment for twenty years.

C. Except as otherwise provided in this section, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a dangerous crime against children in the first degree involving attempted first degree murder of a minor who is twelve, thirteen or fourteen years of age, second degree murder of a minor who is twelve, thirteen or fourteen years of age, sexual assault of a minor who is twelve, thirteen or fourteen years of age, taking a child for the purpose of prostitution, child prostitution, sexual conduct with a minor who is twelve, thirteen or fourteen years of age, continuous sexual abuse of a child, sex trafficking of a minor who is under fifteen years of age, manufacturing methamphetamine under circumstances that cause physical injury to a minor who is twelve, thirteen or fourteen years of age or involving or using minors in drug offenses shall be sentenced to a presumptive term of imprisonment for twenty years. If the convicted person has been previously convicted of one predicate felony the person shall be sentenced to a presumptive term of imprisonment for thirty years.

D. Except as otherwise provided in this section, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a dangerous crime against children in the first degree involving aggravated assault, molestation of a child, commercial sexual exploitation of a minor, sexual exploitation of a minor, child abuse or kidnapping shall be sentenced to a presumptive term of imprisonment for seventeen years. If the convicted person has been previously convicted of one predicate felony the person shall be sentenced to a presumptive term of imprisonment for twenty-eight years.

E. Except as otherwise provided in this section, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a dangerous crime against children involving sexual abuse under section 13-1404 is guilty of a class 3 felony and shall be sentenced to a presumptive term of imprisonment for five years, and unless the person has previously been convicted of a predicate felony, the presumptive term may be increased or decreased by up to two and one-half

years pursuant to section 13-702, subsections B, C and D. If the person is sentenced to a term of imprisonment the person is not eligible for release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. If the convicted person has been previously convicted of one predicate felony the person shall be sentenced to a presumptive term of imprisonment for fifteen years and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

F. The presumptive sentences prescribed in subsections B, C and D of this section or subsection E of this section if the person has previously been convicted of a predicate felony may be increased or decreased by up to seven years pursuant to the provisions of section 13-702, subsections B, C and D.

G. Except as provided in subsection E of this section, a person sentenced for a dangerous crime against children in the first degree pursuant to this section is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served or commuted.

H. A person who stands convicted of any dangerous crime against children in the first degree pursuant to subsection C or D of this section having been previously convicted of two or more predicate felonies shall be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served not fewer than thirty-five years or the sentence is commuted.

I. Notwithstanding chapter 10 of this title, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a dangerous crime against children in the second degree pursuant to subsection C or D of this section or luring a minor for sexual exploitation pursuant to section 13-3554 is guilty of a class 3 felony and shall be sentenced to a presumptive term of imprisonment for ten years. The presumptive term may be increased or decreased by up to five years pursuant to section 13-702, subsections B, C and D. If the person is sentenced to a term of imprisonment the person is not eligible for release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served the sentence imposed by the court, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. A person who is convicted of any dangerous crime against children in the second degree having been previously convicted of one or more predicate felonies is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

J. Section 13-604, subsections M and O apply to the determination of prior convictions.

K. The sentence imposed on a person by the court for a dangerous crime against children under subsection D of this section involving child molestation or sexual abuse pursuant to subsection E of this section may be served concurrently with other sentences if the offense involved only one victim.

The sentence imposed on a person for any other dangerous crime against children in the first or second degree shall be consecutive to any other sentence imposed on the person at any time, including child molestation and sexual abuse of the same victim.

L. In this section, for purposes of punishment an unborn child shall be treated like a minor who is under twelve years of age.

M. For the purposes of this section:

1. "Dangerous crime against children" means any of the following that is committed against a minor who is under fifteen years of age:

- (a) Second degree murder.
- (b) Aggravated assault resulting in serious physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument.
- (c) Sexual assault.
- (d) Molestation of a child.
- (e) Sexual conduct with a minor.
- (f) Commercial sexual exploitation of a minor.
- (g) Sexual exploitation of a minor.
- (h) Child abuse as prescribed in section 13-3623, subsection A, paragraph 1.
- (i) Kidnapping.
- (j) Sexual abuse.
- (k) Taking a child for the purpose of prostitution as defined in section 13-3206.
- (l) Child prostitution as defined in section 13-3212.
- (m) Involving or using minors in drug offenses.
- (n) Continuous sexual abuse of a child.
- (o) Attempted first degree murder.
- (p) Sex trafficking.
- (q) Manufacturing methamphetamine under circumstances that cause physical injury to a minor.

A dangerous crime against children is in the first degree if it is a completed offense and is in the second degree if it is a preparatory offense, except attempted first degree murder is a dangerous crime against children in the first degree.

2. "Predicate felony" means any felony involving child abuse pursuant to section 13-3623, subsection A, paragraph 1, a sexual offense, conduct involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument, or a dangerous crime against children in the first or second degree.

13-702. Sentencing: definition

A. Sentences provided in section 13-701 for a first conviction of a felony, except those felonies involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury upon another or if a specific sentence is otherwise provided, may be increased or reduced by the court within the ranges set by this subsection. Any reduction or increase shall be based on the aggravating and mitigating circumstances contained in subsections C and D of this section and shall be within the following ranges:

		<u>Minimum</u>	<u>Maximum</u>
_____ 1.	For a class 2 felony	4 years	10 years
_____ 2.	For a class 3 felony	2.5 years	7 years
_____ 3.	For a class 4 felony	1.5 years	3 years
_____ 4.	For a class 5 felony	9 months	2 years
_____ 5.	For a class 6 felony	6 months	1.5 years

B. The upper or lower term imposed pursuant to section 13-604, 13-604.01, 13-604.02, 13-702.01 or 13-710 or subsection A of this section may be imposed only if one or more of the circumstances alleged to be in aggravation of the crime are found to be true by the trier of fact beyond a reasonable doubt, or in mitigation of the crime are found to be true by the trial judge, on any evidence or information introduced or submitted to the court or the trier of fact before sentencing or any evidence presented at trial, and factual findings and reasons in support of such findings are set forth on the record at the time of sentencing.

C. For the purpose of determining the sentence pursuant to section 13-710 and subsection A of this section, the trier of fact shall determine and the court shall consider the following aggravating circumstances:

1. Infliction or threatened infliction of serious physical injury, except if this circumstance is an essential element of the offense of conviction or has been utilized to enhance the range of punishment under section 13-604.
2. Use, threatened use or possession of a deadly weapon or dangerous instrument during the commission of the crime, except if this circumstance is an essential element of the offense of conviction or has been utilized to enhance the range of punishment under section 13-604.
3. If the offense involves the taking of or damage to property, the value of the property so taken or damaged.
4. Presence of an accomplice.
5. Especially heinous, cruel or depraved manner in which the offense was committed.
6. The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.
7. The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.
8. At the time of the commission of the offense, the defendant was a public servant and the offense involved conduct directly related to the defendant's office or employment.
9. The victim or, if the victim has died as a result of the conduct of the defendant, the victim's immediate family suffered physical, emotional or financial harm.
10. During the course of the commission of the offense, the death of an unborn child at any stage of its development occurred.

11. The defendant was previously convicted of a felony within the ten years immediately preceding the date of the offense. A conviction outside the jurisdiction of this state for an offense that if committed in this state would be punishable as a felony is a felony conviction for the purposes of this paragraph.
12. The defendant was wearing body armor as defined in section 13-3116.
13. The victim of the offense is at least sixty-five years of age or is a disabled person as defined by section 38-492.
14. The defendant was appointed pursuant to title 14 as a fiduciary and the offense involved conduct directly related to the defendant's duties to the victim as fiduciary.
15. Evidence that the defendant committed the crime out of malice toward a victim because of the victim's identity in a group listed in section 41-1750, subsection A, paragraph 3 or because of the defendant's perception of the victim's identity in a group listed in section 41-1750, subsection A, paragraph 3.
16. The defendant was convicted of a violation of section 13-1102, section 13-1103, section 13-1104, subsection A, paragraph 3 or section 13-1204, subsection A, paragraph 1 or 2 arising from an act that was committed while driving a motor vehicle and the defendant's alcohol concentration at the time of committing the offense was 0.15 or more. For the purposes of this paragraph, "alcohol concentration" has the same meaning prescribed in section 28-101.
17. Lying in wait for the victim or ambushing the victim during the commission of any felony.
18. The offense was committed in the presence of a child and any of the circumstances exist that are set forth in section 13-3601, subsection A.
19. The offense was committed in retaliation for a victim's either reporting criminal activity or being involved in an organization, other than a law enforcement agency, that is established for the purpose of reporting or preventing criminal activity.
20. The defendant was impersonating a peace officer as defined in section 1-215.
21. The defendant was in violation of 8 United States Code section 1323, 1324, 1325, 1326 or 1328 at the time of the commission of the offense.
22. The defendant used a remote stun gun or an authorized remote stun gun in the commission of the offense. For the purposes of this paragraph:
 - (a) "Authorized remote stun gun" means a remote stun gun that has all of the following:
 - (i) An electrical discharge that is less than one hundred thousand volts and less than nine joules of energy per pulse.
 - (ii) A serial or identification number on all projectiles that are discharged from the remote stun gun.
 - (iii) An identification and tracking system that, on deployment of remote electrodes, disperses coded material that is traceable to the purchaser through records that are kept by the manufacturer on all remote stun guns and all individual cartridges sold.
 - (iv) A training program that is offered by the manufacturer.
 - (b) "Remote stun gun" means an electronic device that emits an electrical charge and that is designed and primarily employed to incapacitate a person or animal either through contact with electrodes on the device itself or remotely through wired probes that are attached to the device or through a spark, plasma, ionization or other conductive means emitting from the device.
23. Any other factor that the state alleges is relevant to the defendant's character or background or to the nature or circumstances of the crime.

D. For the purpose of determining the sentence pursuant to section 13-710 and subsection A of this section, the court shall consider the following mitigating circumstances:

1. The age of the defendant.
2. The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution.
3. The defendant was under unusual or substantial duress, although not such as to constitute a defense to prosecution.
4. The degree of the defendant's participation in the crime was minor, although not so minor as to constitute a defense to prosecution.
5. Any other factor that is relevant to the defendant's character or background or to the nature or circumstances of the crime and that the court finds to be mitigating.

If the trier of fact finds at least one aggravating circumstance, the trial court may find by a preponderance of the evidence additional aggravating circumstances. In determining what sentence to impose, the court shall take into account the amount of aggravating circumstances and whether the amount of mitigating circumstances is sufficiently substantial to call for the lesser term. If the trier of fact finds aggravating circumstances and the court does not find any mitigating circumstances, the court shall impose an aggravated sentence.

E. The court in imposing a sentence shall consider the evidence and opinions presented by the victim or the victim's immediate family at any aggravation or mitigation proceeding or in the presentence report.

F. Nothing in this section affects any provision of law that imposes the death penalty, that expressly provides for imprisonment for life or that authorizes or restricts the granting of probation and suspending the execution of sentence.

G. Notwithstanding any other provision of this title, if a person is convicted of any class 6 felony not involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument and if the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that it would be unduly harsh to sentence the defendant for a felony, the court may enter judgment of conviction for a class 1 misdemeanor and make disposition accordingly or may place the defendant on probation in accordance with chapter 9 of this title and refrain from designating the offense as a felony or misdemeanor until the probation is terminated. The offense shall be treated as a felony for all purposes until such time as the court may actually enter an order designating the offense a misdemeanor. This subsection does not apply to any person who stands convicted of a class 6 felony and who has previously been convicted of two or more felonies. If a crime or public offense is punishable in the discretion of the court by a sentence as a class 6 felony or a class 1 misdemeanor, the offense shall be deemed a misdemeanor if the prosecuting attorney:

1. Files an information in superior court designating the offense as a misdemeanor.
2. Files a complaint in justice court or municipal court designating the offense as a misdemeanor within the jurisdiction of the respective court.
3. Files a complaint, with the consent of the defendant, before or during the preliminary hearing amending the complaint to charge a misdemeanor.

H. For the purposes of this section, "trier of fact" means a jury, unless the defendant and the state waive a jury in which case the trier of fact means the court.

13-702.01. Exceptional circumstances; aggravation; mitigation; definition

A. Notwithstanding section 13-702, subsection A, if a person is convicted of a felony without having previously been convicted of any felony and if the trier of fact finds beyond a reasonable doubt that at least two aggravating factors listed in section 13-702, subsection C apply, the court may increase the maximum term of imprisonment otherwise authorized for that offense up to the following maximum terms:

1. For a class 2 felony	12.5 years
2. For a class 3 felony	8.75 years
3. For a class 4 felony	3.75 years
4. For a class 5 felony	2.5 years
5. For a class 6 felony	2 years

B. Notwithstanding section 13-702, subsection A, if a person is convicted of a felony without having previously been convicted of any felony and if the court finds that at least two mitigating factors listed in section 13-702, subsection D apply, the court may decrease the minimum term of imprisonment otherwise authorized for that offense down to the following minimum terms:

1. For a class 2 felony	3 years
2. For a class 3 felony	2 years
3. For a class 4 felony	1 year
4. For a class 5 felony	6 months
5. For a class 6 felony	4 months

C. Notwithstanding section 13-604, subsection A or B, if a person is convicted of a felony offense and has one historical prior felony conviction and if the trier of fact finds beyond a reasonable doubt that at least two aggravating factors listed in section 13-702, subsection C apply, the court may increase the maximum term of imprisonment otherwise authorized for that offense up to the following maximum terms:

1. Class 2 felony	23.25 years
2. Class 3 felony	16.25 years
3. Class 4 felony	7.5 years
4. Class 5 felony	3.75 years
5. Class 6 felony	2.75 years

D. Notwithstanding section 13-604, subsection A or B, if a person is convicted of a felony offense and has one historical prior felony conviction and if the court finds that at least two mitigating factors listed in section 13-702, subsection D apply, the court may decrease the minimum term of imprisonment otherwise authorized for that offense down to the following minimum terms:

1. Class 2 felony	4.5 years
2. Class 3 felony	3.5 years
3. Class 4 felony	2.25 years
4. Class 5 felony	1 year
5. Class 6 felony	9 months

E. Notwithstanding section 13-604, subsection C or D, if a person is convicted of a felony offense and has two or more historical prior felony convictions and if the trier of fact finds beyond a reasonable doubt that at least two aggravating factors listed in section 13-702, subsection C apply, the court may increase the maximum term of imprisonment otherwise authorized for that offense up to the following maximum terms:

1. Class 2 felony	35 years
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2. Class 3 felony	25 years
3. Class 4 felony	15 years
4. Class 5 felony	7.5 years
5. Class 6 felony	5.75 years

F. Notwithstanding section 13-604, subsection C or D, if a person is convicted of a felony offense and has two or more historical prior felony convictions and if the court finds that at least two mitigating factors listed in section 13-702, subsection D apply, the court may decrease the minimum term of imprisonment otherwise authorized for that offense down to the following minimum terms:

1. Class 2 felony	10.5 years
2. Class 3 felony	7.5 years
3. Class 4 felony	6 years
4. Class 5 felony	3 years
5. Class 6 felony	2.25 years

G. The upper or lower term imposed pursuant to this section may be imposed only if at least two of the aggravating circumstances are found beyond a reasonable doubt to be true by the trier of fact, or in mitigation of the crime are found to be true by the trial judge, on any evidence or information introduced or submitted to the court or the trier of fact before sentencing or any evidence presented at trial, and factual findings and reasons in support of these findings are set forth on the record at the time of sentencing.

H. The court in imposing sentence shall consider the evidence and opinions presented by the victim or the victim's immediate family at any aggravation or mitigation proceeding or in the presentence report.

I. The court shall inform all of the parties before sentencing occurs of its intent to increase or decrease a sentence pursuant to this section. If the court fails to inform the parties, a party waives its right to be informed unless the party timely objects at the time of sentencing.

J. For the purposes of this section, "trier of fact" means a jury, unless the defendant and the state waive a jury in which case the trier of fact means the court.

13-703. Sentence of death or life imprisonment; aggravating and mitigating circumstances; definition

A. If the state has filed a notice of intent to seek the death penalty and the defendant is convicted of first degree murder as defined in section 13-1105, the defendant shall be sentenced to death or imprisonment in the custody of the state department of corrections for life or natural life as determined and in accordance with the procedures provided in section 13-703.01. A defendant who is sentenced to natural life is not eligible for commutation, parole, work furlough, work release or release from confinement on any basis. If the defendant is sentenced to life, the defendant shall not be released on any basis until the completion of the service of twenty-five calendar years if the murdered person was fifteen or more years of age and thirty-five years if the murdered person was under fifteen years of age or was an unborn child. In this section, for purposes of punishment an unborn child shall be treated like a minor who is under twelve years of age.

B. At the aggravation phase of the sentencing proceeding that is held pursuant to section 13-703.01, the admissibility of information relevant to any of the aggravating circumstances set forth in subsection F of this section shall be governed by the rules of evidence applicable to criminal trials. The burden of establishing the existence of any of the aggravating circumstances set forth in subsection F of this section is on the prosecution. The prosecution must prove the existence of the aggravating circumstances beyond a reasonable doubt.

C. At the penalty phase of the sentencing proceeding that is held pursuant to section 13-703.01, the prosecution or the defendant may present any information that is relevant to any of the mitigating circumstances included in subsection G of this section, regardless of its admissibility under the rules governing admission of evidence at criminal trials. The burden of establishing the existence of the mitigating circumstances included in subsection G of this section is on the defendant. The defendant must prove the existence of the mitigating circumstances by a preponderance of the evidence. If the trier of fact is a jury, the jurors do not have to agree unanimously that a mitigating circumstance has been proven to exist. Each juror may consider any mitigating circumstance found by that juror in determining the appropriate penalty.

D. Evidence that is admitted at the trial and that relates to any aggravating or mitigating circumstances shall be deemed admitted as evidence at a sentencing proceeding if the trier of fact considering that evidence is the same trier of fact that determined the defendant's guilt. The prosecution and the defendant shall be permitted to rebut any information received at the aggravation or penalty phase of the sentencing proceeding and shall be given fair opportunity to present argument as to whether the information is sufficient to establish the existence of any of the circumstances included in subsections F and G of this section.

E. In determining whether to impose a sentence of death or life imprisonment, the trier of fact shall take into account the aggravating and mitigating circumstances that have been proven. The trier of fact shall impose a sentence of death if the trier of fact finds one or more of the aggravating circumstances enumerated in subsection F of this section and then determines that there are no mitigating circumstances sufficiently substantial to call for leniency.

F. The trier of fact shall consider the following aggravating circumstances in determining whether to impose a sentence of death:

1. The defendant has been convicted of another offense in the United States for which under Arizona law a sentence of life imprisonment or death was imposable.

2. The defendant has been or was previously convicted of a serious offense, whether preparatory or completed. Convictions for serious offenses committed on the same occasion as the homicide, or not committed on the same occasion but consolidated for trial with the homicide, shall be treated as a serious offense under this paragraph.
3. In the commission of the offense the defendant knowingly created a grave risk of death to another person or persons in addition to the person murdered during the commission of the offense.
4. The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.
5. The defendant committed the offense as consideration for the receipt, or in expectation of the receipt, of anything of pecuniary value.
6. The defendant committed the offense in an especially heinous, cruel or depraved manner.
7. The defendant committed the offense while:
 - (a) In the custody of or on authorized or unauthorized release from the state department of corrections, a law enforcement agency or a county or city jail.
 - (b) On probation for a felony offense.
8. The defendant has been convicted of one or more other homicides, as defined in section 13-1101, that were committed during the commission of the offense.
9. The defendant was an adult at the time the offense was committed or was tried as an adult and the murdered person was under fifteen years of age, was an unborn child in the womb at any stage of its development or was seventy years of age or older.
10. The murdered person was an on duty peace officer who was killed in the course of performing the officer's official duties and the defendant knew, or should have known, that the murdered person was a peace officer.
11. The defendant committed the offense with the intent to promote, further or assist the objectives of a criminal street gang or criminal syndicate or to join a criminal street gang or criminal syndicate.
12. The defendant committed the offense to prevent a person's cooperation with an official law enforcement investigation, to prevent a person's testimony in a court proceeding, in retaliation for a person's cooperation with an official law enforcement investigation or in retaliation for a person's testimony in a court proceeding.
13. The offense was committed in a cold, calculated manner without pretense of moral or legal justification.
14. The defendant used a remote stun gun or an authorized remote stun gun in the commission of the offense. For the purposes of this paragraph:
 - (a) "Authorized remote stun gun" means a remote stun gun that has all of the following:
 - (i) An electrical discharge that is less than one hundred thousand volts and less than nine joules of energy per pulse.
 - (ii) A serial or identification number on all projectiles that are discharged from the remote stun gun.
 - (iii) An identification and tracking system that, on deployment of remote electrodes, disperses coded material that is traceable to the purchaser through records that are kept by the manufacturer on all remote stun guns and all individual cartridges sold.
 - (iv) A training program that is offered by the manufacturer.
 - (b) "Remote stun gun" means an electronic device that emits an electrical charge and that is designed and primarily employed to incapacitate a person or animal either through contact with electrodes on

the device itself or remotely through wired probes that are attached to the device or through a spark, plasma, ionization or other conductive means emitting from the device.

G. The trier of fact shall consider as mitigating circumstances any factors proffered by the defendant or the state that are relevant in determining whether to impose a sentence less than death, including any aspect of the defendant's character, propensities or record and any of the circumstances of the offense, including but not limited to the following:

1. The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution.
2. The defendant was under unusual and substantial duress, although not such as to constitute a defense to prosecution.
3. The defendant was legally accountable for the conduct of another under the provisions of section 13-303, but his participation was relatively minor, although not so minor as to constitute a defense to prosecution.
4. The defendant could not reasonably have foreseen that his conduct in the course of the commission of the offense for which the defendant was convicted would cause, or would create a grave risk of causing, death to another person.
5. The defendant's age.

H. For purposes of determining whether a conviction of any dangerous crime against children is a serious offense pursuant to this section, an unborn child shall be treated like a minor who is under twelve years of age.

I. For the purposes of this section, "serious offense" means any of the following offenses if committed in this state or any offense committed outside this state that if committed in this state would constitute one of the following offenses:

1. First degree murder.
2. Second degree murder.
3. Manslaughter.
4. Aggravated assault resulting in serious physical injury or committed by the use, threatened use or exhibition of a deadly weapon or dangerous instrument.
5. Sexual assault.
6. Any dangerous crime against children.
7. Arson of an occupied structure.
8. Robbery.
9. Burglary in the first degree.
10. Kidnapping.
11. Sexual conduct with a minor under fifteen years of age.
12. Burglary in the second degree.
13. Terrorism.

13-703.01. Sentences of death, life imprisonment or natural life; imposition; sentencing proceedings; definitions

(L05, Ch. 325, sec. 4. Conditionally Eff.)

A. If the state has filed a notice of intent to seek the death penalty and the defendant is convicted of first degree murder, the trier of fact at the sentencing proceeding shall determine whether to impose a sentence of death in accordance with the procedures provided in this section. If the trier of fact determines that a sentence of death is not appropriate, or if the state has not filed a notice of intent to seek the death penalty, and the defendant is convicted of first degree murder, the court shall determine whether to impose a sentence of life or natural life.

B. Before trial, the prosecution shall notice one or more of the aggravating circumstances under section 13-703, subsection F.

C. If the trier of fact finds the defendant guilty of first degree murder, the trier of fact shall then immediately determine whether one or more alleged aggravating circumstances have been proven. This proceeding is the aggravation phase of the sentencing proceeding.

D. If the trier of fact finds that one or more of the alleged aggravating circumstances have been proven, the trier of fact shall then immediately determine whether the death penalty should be imposed. This proceeding is the penalty phase of the sentencing proceeding.

E. At the aggravation phase, the trier of fact shall make a special finding on whether each alleged aggravating circumstance has been proven based on the evidence that was presented at the trial or at the aggravation phase. If the trier of fact is a jury, a unanimous verdict is required to find that the aggravating circumstance has been proven. If the trier of fact unanimously finds that an aggravating circumstance has not been proven, the defendant is entitled to a special finding that the aggravating circumstance has not been proven. If the trier of fact unanimously finds no aggravating circumstances, the court shall then determine whether to impose a sentence of life or natural life on the defendant.

F. The penalty phase shall be held immediately after the trier of fact finds at the aggravation phase that one or more of the aggravating circumstances under section 13-703, subsection F have been proven. A finding by the trier of fact that any of the remaining aggravating circumstances alleged has not been proven or the inability of the trier of fact to agree on the issue of whether any of the remaining aggravating circumstances alleged has been proven shall not prevent the holding of the penalty phase.

G. At the penalty phase, the defendant and the state may present any evidence that is relevant to the determination of whether there is mitigation that is sufficiently substantial to call for leniency. In order for the trier of fact to make this determination, the state may present any evidence that demonstrates that the defendant should not be shown leniency.

H. The trier of fact shall determine unanimously whether death is the appropriate sentence. If the trier of fact is a jury and the jury unanimously determines that the death penalty is not appropriate, the court shall determine whether to impose a sentence of life or natural life.

I. If the trier of fact at any prior phase of the trial is the same trier of fact at the subsequent phase, any evidence that was presented at any prior phase of the trial shall be deemed admitted as evidence at any subsequent phase of the trial.

J. At the aggravation phase, if the trier of fact is a jury, the jury is unable to reach a verdict on any of the alleged aggravating circumstances and the jury has not found that at least one of the alleged

aggravating circumstances has been proven, the court shall dismiss the jury and shall impanel a new jury. The new jury shall not retry the issue of the defendant's guilt or the issue regarding any of the aggravating circumstances that the first jury found not proved by unanimous verdict. If the new jury is unable to reach a unanimous verdict, the court shall impose a sentence of life or natural life on the defendant.

K. At the penalty phase, if the trier of fact is a jury and the jury is unable to reach a verdict, the court shall dismiss the jury and shall impanel a new jury. The new jury shall not retry the issue of the defendant's guilt or the issue regarding any of the aggravating circumstances that the first jury found by unanimous verdict to be proved or not proved. If the new jury is unable to reach a unanimous verdict, the court shall impose a sentence of life or natural life on the defendant.

L. If the jury that rendered a verdict of guilty is not the jury first impaneled for the aggravation phase, the jury impaneled in the aggravation phase shall not retry the issue of the defendant's guilt. If the jury impaneled in the aggravation phase is unable to reach a verdict on any of the alleged aggravating circumstances and the jury has not found that at least one of the alleged aggravating circumstances has been proven, the court shall dismiss the jury and shall impanel a new jury. The new jury shall not retry the issue of the defendant's guilt or the issue regarding any of the aggravating circumstances that the first jury found not proved by unanimous verdict. If the new jury is unable to reach a unanimous verdict, the court shall impose a sentence of life or natural life on the defendant.

M. Alternate jurors who are impaneled for the trial in a case in which the offense is punishable by death shall not be excused from the case until the completion of the sentencing proceeding.

N. If the sentence of a person who was sentenced to death is overturned, the person shall be resentenced pursuant to this section by a jury that is specifically impaneled for this purpose as if the original sentencing had not occurred.

O. In any case that requires sentencing or resentencing in which the defendant has been convicted of an offense that is punishable by death and in which the trier of fact was a judge or a jury that has since been discharged, the defendant shall be sentenced or resentenced pursuant to this section by a jury that is specifically impaneled for this purpose.

P. The trier of fact shall make all factual determinations required by this section or the Constitution of the United States or this state to impose a death sentence. If the defendant bears the burden of proof, the issue shall be determined in the penalty phase. If the state bears the burden of proof, the issue shall be determined in the aggravation phase.

Q. If the death penalty was not alleged or was alleged but not imposed, the court shall determine whether to impose a sentence of life or natural life. In determining whether to impose a sentence of life or natural life, the court:

1. May consider any evidence introduced before sentencing or at any other sentencing proceeding.
2. Shall consider the aggravating and mitigating circumstances listed in section 13-702 and any statement made by a victim.

R. Subject to the provisions of section 13-703, subsection B, a victim has the right to be present at the aggravation phase and to present any information that is relevant to the proceeding. A victim has the right to be present at the penalty phase. At the penalty phase, the victim has the right to be heard pursuant to section 13-4426.

S. For the purposes of this section:

1. "Trier of fact" means a jury unless the defendant and the state waive a jury, in which case the trier of fact shall be the court.
2. "Victim" means the murdered person's spouse, parent, child, grandparent or sibling, any other person related to the murdered person by consanguinity or affinity to the second degree or any other lawful representative of the murdered person, except if the spouse, parent, child, grandparent, sibling, other person related to the murdered person by consanguinity or affinity to the second degree or other lawful representative is in custody for an offense or is the accused.

13-703.01. Sentences of death, life imprisonment or natural life; imposition; sentencing proceedings; definitions

(L05, Ch. 325, sec. 3)

A. If the state has filed a notice of intent to seek the death penalty and the defendant is convicted of first degree murder, the trier of fact at the sentencing proceeding shall determine whether to impose a sentence of death in accordance with the procedures provided in this section. If the trier of fact determines that a sentence of death is not appropriate, or if the state has not filed a notice of intent to seek the death penalty, and the defendant is convicted of first degree murder, the court shall determine whether to impose a sentence of life or natural life.

B. Before trial, the prosecution shall notice one or more of the aggravating circumstances under section 13-703, subsection F.

C. If the trier of fact finds the defendant guilty of first degree murder, the trier of fact shall then immediately determine whether one or more alleged aggravating circumstances have been proven. This proceeding is the aggravation phase of the sentencing proceeding.

D. If the trier of fact finds that one or more of the alleged aggravating circumstances have been proven, the trier of fact shall then immediately determine whether the death penalty should be imposed. This proceeding is the penalty phase of the sentencing proceeding.

E. At the aggravation phase, the trier of fact shall make a special finding on whether each alleged aggravating circumstance has been proven based on the evidence that was presented at the trial or at the aggravation phase. If the trier of fact is a jury, a unanimous verdict is required to find that the aggravating circumstance has been proven. If the trier of fact unanimously finds that an aggravating circumstance has not been proven, the defendant is entitled to a special finding that the aggravating circumstance has not been proven. If the trier of fact unanimously finds no aggravating circumstances, the court shall then determine whether to impose a sentence of life or natural life on the defendant.

F. The penalty phase shall be held immediately after the trier of fact finds at the aggravation phase that one or more of the aggravating circumstances under section 13-703, subsection F have been proven. A finding by the trier of fact that any of the remaining aggravating circumstances alleged has not been proven or the inability of the trier of fact to agree on the issue of whether any of the remaining aggravating circumstances alleged has been proven shall not prevent the holding of the penalty phase.

G. At the penalty phase, the defendant and the state may present any evidence that is relevant to the determination of whether there is mitigation that is sufficiently substantial to call for leniency. In order for the trier of fact to make this determination, the state may present any evidence that demonstrates that the defendant should not be shown leniency.

H. The trier of fact shall determine unanimously whether death is the appropriate sentence. If the trier of fact is a jury and the jury unanimously determines that the death penalty is not appropriate, the court shall determine whether to impose a sentence of life or natural life.

I. If the trier of fact at any prior phase of the trial is the same trier of fact at the subsequent phase, any evidence that was presented at any prior phase of the trial shall be deemed admitted as evidence at any subsequent phase of the trial.

J. At the aggravation phase, if the trier of fact is a jury, the jury is unable to reach a verdict on any of the alleged aggravating circumstances and the jury has not found that at least one of the alleged

aggravating circumstances has been proven, the court shall dismiss the jury and shall impanel a new jury. The new jury shall not retry the issue of the defendant's guilt or the issue regarding any of the aggravating circumstances that the first jury found not proved by unanimous verdict. If the new jury is unable to reach a unanimous verdict, the court shall impose a sentence of life or natural life on the defendant.

K. At the penalty phase, if the trier of fact is a jury and the jury is unable to reach a verdict, the court shall dismiss the jury and shall impanel a new jury. The new jury shall not retry the issue of the defendant's guilt or the issue regarding any of the aggravating circumstances that the first jury found by unanimous verdict to be proved or not proved. If the new jury is unable to reach a unanimous verdict, the court shall impose a sentence of life or natural life on the defendant.

L. If the jury that rendered a verdict of guilty is not the jury first impaneled for the aggravation phase, the jury impaneled in the aggravation phase shall not retry the issue of the defendant's guilt. If the jury impaneled in the aggravation phase is unable to reach a verdict on any of the alleged aggravating circumstances and the jury has not found that at least one of the alleged aggravating circumstances has been proven, the court shall dismiss the jury and shall impanel a new jury. The new jury shall not retry the issue of the defendant's guilt or the issue regarding any of the aggravating circumstances that the first jury found not proved by unanimous verdict. If the new jury is unable to reach a unanimous verdict, the court shall impose a sentence of life or natural life on the defendant.

M. Alternate jurors who are impaneled for the trial in a case in which the offense is punishable by death shall not be excused from the case until the completion of the sentencing proceeding.

N. If the sentence of a person who was sentenced to death is overturned, the person shall be resentenced pursuant to this section by a jury that is specifically impaneled for this purpose as if the original sentencing had not occurred.

O. In any case that requires sentencing or resentencing in which the defendant has been convicted of an offense that is punishable by death and in which the trier of fact was a judge or a jury that has since been discharged, the defendant shall be sentenced or resentenced pursuant to this section by a jury that is specifically impaneled for this purpose.

P. The trier of fact shall make all factual determinations required by this section or the Constitution of the United States or this state to impose a death sentence. If the defendant bears the burden of proof, the issue shall be determined in the penalty phase. If the state bears the burden of proof, the issue shall be determined in the aggravation phase.

Q. If the death penalty was not alleged or was alleged but not imposed, the court shall determine whether to impose a sentence of life or natural life. In determining whether to impose a sentence of life or natural life, the court:

1. May consider any evidence introduced before sentencing or at any other sentencing proceeding.
2. Shall consider the aggravating and mitigating circumstances listed in section 13-702 and any statement made by a victim.

R. Subject to the provisions of section 13-703, subsection B, a victim has the right to be present at the aggravation phase and to present any information that is relevant to the proceeding. A victim has the right to be present and to present information at the penalty phase. At the penalty phase, the victim may present information about the murdered person and the impact of the murder on the victim and other family members and may submit a victim impact statement in any format to the trier of fact.

S. For the purposes of this section:

1. "Trier of fact" means a jury unless the defendant and the state waive a jury, in which case the trier of fact shall be the court.
2. "Victim" means the murdered person's spouse, parent, child, grandparent or sibling, any other person related to the murdered person by consanguinity or affinity to the second degree or any other lawful representative of the murdered person, except if the spouse, parent, child, grandparent, sibling, other person related to the murdered person by consanguinity or affinity to the second degree or other lawful representative is in custody for an offense or is the accused.

13-703.03. Capital defendant prescreening evaluation for competency and sanity

A. If the state files a notice of intent to seek the death penalty, unless the defendant objects, the court shall appoint a psychologist or psychiatrist licensed pursuant to title 32, chapter 13, 17 or 19.1 to conduct a prescreening evaluation to determine if reasonable grounds exist to conduct another examination to determine the following:

1. The defendant's competency to stand trial.
2. Whether the defendant was sane at the time the defendant allegedly committed the offense.

B. The court may appoint separate psychological experts to conduct each of the evaluations ordered pursuant to subsection A.

C. The court shall seal any psychological expert's report pursuant to this section, and the report shall only be available to the defendant. The report shall be released on the motion of any party if the defendant introduces the report in the present case, raises a mental health defense at trial or sentencing or is convicted of an offense in the present case and the sentence is final.

D. If the prescreening evaluation indicates that reasonable grounds exist to conduct another examination as prescribed by subsection A, the court shall treat the prescreening evaluation as a preliminary examination pursuant to rule 11.2(c) of the Arizona rules of criminal procedure and shall proceed in accordance with rule 11 of the Arizona rules of criminal procedure.

13-712. Sentence for certain drug offenses

A. A person who stands convicted of a violation of section 13-3407, subsection A, paragraph 2, 3, 4 or 7 involving methamphetamine shall be sentenced to a presumptive term of ten calendar years. The presumptive term imposed pursuant to this subsection may be mitigated or aggravated by up to five years pursuant to section 13-702, subsections C and D.

B. A person who stands convicted of a violation of section 13-3407, subsection A, paragraph 2, 3, 4 or 7 involving methamphetamine and who has previously been convicted of a violation of section 13-3407, subsection A, paragraph 2, 3, 4 or 7 involving methamphetamine or section 13-3407.01 shall be sentenced to a presumptive term of fifteen calendar years. The presumptive term imposed pursuant to this subsection may be mitigated or aggravated by up to five years pursuant to section 13-702, subsections C and D.

13-902. Periods of probation

A. Unless terminated sooner, probation may continue for the following periods:

1. For a class 2 felony, seven years.
2. For a class 3 felony, five years.
3. For a class 4 felony, four years.
4. For a class 5 or 6 felony, three years.
5. For a class 1 misdemeanor, three years.
6. For a class 2 misdemeanor, two years.
7. For a class 3 misdemeanor, one year.

B. Notwithstanding subsection A of this section, unless terminated sooner, probation may continue for the following periods:

1. For a violation of section 28-1381 or 28-1382, five years.
2. For a violation of section 28-1383, ten years.

C. When the court has required, as a condition of probation, that the defendant make restitution for any economic loss related to the defendant's offense and that condition has not been satisfied, the court at any time before the termination or expiration of probation may extend the period within the following limits:

1. For a felony, not more than three years.
2. For a misdemeanor, not more than one year.

D. Notwithstanding any other provision of law, justice courts and municipal courts may impose the probation periods specified in subsection A, paragraphs 5, 6 and 7 and subsection B, paragraph 1 of this section.

E. After conviction of a felony offense or an attempt to commit any offense that is included in chapter 14 or 35.1 of this title or section 13-2308.01, 13-2923 or 13-3623, if probation is available, probation may continue for a term not less than the term that is specified in subsection A of this section up to and including life and that the court believes is appropriate for the ends of justice.

F. After conviction of a violation of section 13-3824, subsection A, if a term of probation is imposed and the offense for which the person was required to register was a felony, probation may continue for a term not less than the term that is specified in subsection A of this section up to and including life and that the court believes is appropriate for the ends of justice.

13-907. Setting aside judgment of convicted person on discharge; making of application; release from disabilities; exceptions

A. Except as provided in subsection B of this section, every person convicted of a criminal offense, on fulfillment of the conditions of probation or sentence and discharge by the court, may apply to the judge, justice of the peace or magistrate who pronounced sentence or imposed probation or such judge, justice of the peace or magistrate's successor in office to have the judgment of guilt set aside. The convicted person shall be informed of this right at the time of discharge. The application to set aside the judgment may be made by the convicted person or by the convicted person's attorney or probation officer authorized in writing. If the judge, justice of the peace or magistrate grants the application, the judge, justice of the peace or magistrate shall set aside the judgment of guilt, dismiss the accusations or information and order that the person be released from all penalties and disabilities resulting from the conviction other than those imposed by the department of transportation pursuant to section 28-3304, 28-3306, 28-3307, 28-3308 or 28-3319, except that the conviction may be used as a conviction if such conviction would be admissible had it not been set aside and may be pleaded and proved in any subsequent prosecution of such person by the state or any of its subdivisions for any offense or used by the department of transportation in enforcing section 28-3304, 28-3306, 28-3307, 28-3308 or 28-3319 as if the judgment of guilt had not been set aside.

B. This section does not apply to a person convicted of a criminal offense:

1. Involving the infliction of serious physical injury.
2. Involving the use or exhibition of a deadly weapon or dangerous instrument.
3. For which the person is required or ordered by the court to register pursuant to section 13-3821.
4. For which there has been a finding of sexual motivation pursuant to section 13-118.
5. In which the victim is a minor under fifteen years of age.
6. In violation of section 28-3473, any local ordinance relating to stopping, standing or operation of a vehicle or title 28, chapter 3, except a violation of section 28-693 or any local ordinance relating to the same subject matter as section 28-693.

13-922. Persons convicted of sexual offenses; residency restrictions; exceptions; definitions

(Rpld. 1/1/11)

A. An adult probation officer shall not approve the residence of a probationer who has been convicted of a felony offense that requires the probationer to register pursuant to section 13-3821 in any multifamily dwelling unless the number of probationers who are required to register and who reside in the multifamily dwelling is less than ten per cent of the number of dwelling units that are contained in the multifamily dwelling. Not more than one probationer who is classified as a level three offender pursuant to sections 13-3825 and 13-3826 shall reside in a multifamily dwelling.

B. Subsection A of this section does not apply to any of the following:

1. A person who was convicted of a sexual offense and who was placed on probation before the effective date of this section until that person changes residence.
2. A person who resides in a residential treatment facility or a person who participates in a supervised program that provides transitional services, including diagnostic evaluation, behavioral, medical, psychiatric, psychological and social service care.
3. A juvenile who resides with a parent or guardian.
4. A multifamily dwelling in an industrial or commercial zone.

C. This section does not limit the court's discretion to prohibit or restrict, as a condition of probation, a person who is convicted of a sexual offense from residing in any multifamily dwelling.

D. A public entity or an employee of a public entity is not liable for any failure to prevent a violation of this section unless the public employee, acting within the scope of the public employee's employment, intended to disregard the provisions of this section or to cause injury or was grossly negligent.

E. This section applies only in counties with a population of more than two million five hundred thousand persons.

F. For the purposes of this section:

1. "Multifamily dwelling" means a building or buildings that are located in an area zoned residential, that are attached to each other, that contain two or more dwelling units, including triplexes, fourplexes and apartments, and that have as their primary access a common hallway or corridor.
2. "Multifamily dwelling unit" means one or more rooms within a building that are arranged, designed or used for residential purposes and that contain independent sanitary and cooking facilities.
3. "Residential treatment facility" means a residential facility that provides any service or care, including diagnostic evaluation, behavioral, medical, psychiatric, psychological and social service care, vocational rehabilitation or career counseling, to residents and that is licensed by this state or a political subdivision of this state.

13-1102. Negligent homicide: classification

A. A person commits negligent homicide if with criminal negligence the person causes the death of another person, including an unborn child.

B. An offense under this section applies to an unborn child in the womb at any stage of its development. A person may not be prosecuted under this section if any of the following applies:

1. The person was performing an abortion for which the consent of the pregnant woman, or a person authorized by law to act on the pregnant woman's behalf, has been obtained or for which the consent was implied or authorized by law.

2. The person was performing medical treatment on the pregnant woman or the pregnant woman's unborn child.

3. The person was the unborn child's mother.

C. Negligent homicide is a class 4 felony.

13-1103. Manslaughter; classification

A. A person commits manslaughter by:

1. Recklessly causing the death of another person; or
2. Committing second degree murder as defined in section 13-1104, subsection A upon a sudden quarrel or heat of passion resulting from adequate provocation by the victim; or
3. Intentionally aiding another to commit suicide; or
4. Committing second degree murder as defined in section 13-1104, subsection A, paragraph 3, while being coerced to do so by the use or threatened immediate use of unlawful deadly physical force upon such person or a third person which a reasonable person in his situation would have been unable to resist; or
5. Knowingly or recklessly causing the death of an unborn child by any physical injury to the mother.

B. An offense under subsection A, paragraph 5 of this section applies to an unborn child in the womb at any stage of its development. A person shall not be prosecuted under subsection A, paragraph 5 of this section if any of the following applies:

1. The person was performing an abortion for which the consent of the pregnant woman, or a person authorized by law to act on the pregnant woman's behalf, has been obtained or for which the consent was implied or authorized by law.
2. The person was performing medical treatment on the pregnant woman or the pregnant woman's unborn child.
3. The person was the unborn child's mother.

C. Manslaughter is a class 2 felony.

13-1104. Second degree murder: classification

A. A person commits second degree murder if without premeditation:

1. The person intentionally causes the death of another person, including an unborn child or, as a result of intentionally causing the death of another person, causes the death of an unborn child; or
2. Knowing that the person's conduct will cause death or serious physical injury, the person causes the death of another person, including an unborn child or, as a result of knowingly causing the death of another person, causes the death of an unborn child; or
3. Under circumstances manifesting extreme indifference to human life, the person recklessly engages in conduct that creates a grave risk of death and thereby causes the death of another person, including an unborn child or, as a result of recklessly causing the death of another person, causes the death of an unborn child.

B. An offense under this section applies to an unborn child in the womb at any stage of its development. A person may not be prosecuted under this section if any of the following applies:

1. The person was performing an abortion for which the consent of the pregnant woman, or a person authorized by law to act on the pregnant woman's behalf, has been obtained or for which the consent was implied or authorized by law.
2. The person was performing medical treatment on the pregnant woman or the pregnant woman's unborn child.
3. The person was the unborn child's mother.

C. Second degree murder is a class 1 felony and is punishable as provided by section 13-604, subsection S, section 13-604.01 if the victim is under fifteen years of age or is an unborn child or section 13-710.

13-1105. First degree murder; classification

A. A person commits first degree murder if:

1. Intending or knowing that the person's conduct will cause death, the person causes the death of another person, including an unborn child, with premeditation or, as a result of causing the death of another person with premeditation, causes the death of an unborn child.
2. Acting either alone or with one or more other persons the person commits or attempts to commit sexual conduct with a minor under section 13-1405, sexual assault under section 13-1406, molestation of a child under section 13-1410, terrorism under section 13-2308.01, marijuana offenses under section 13-3405, subsection A, paragraph 4, dangerous drug offenses under section 13-3407, subsection A, paragraphs 4 and 7, narcotics offenses under section 13-3408, subsection A, paragraph 7 that equal or exceed the statutory threshold amount for each offense or combination of offenses, involving or using minors in drug offenses under section 13-3409, kidnapping under section 13-1304, burglary under section 13-1506, 13-1507 or 13-1508, arson under section 13-1703 or 13-1704, robbery under section 13-1902, 13-1903 or 13-1904, escape under section 13-2503 or 13-2504, child abuse under section 13-3623, subsection A, paragraph 1, or unlawful flight from a pursuing law enforcement vehicle under section 28-622.01 and in the course of and in furtherance of the offense or immediate flight from the offense, the person or another person causes the death of any person.
3. Intending or knowing that the person's conduct will cause death to a law enforcement officer, the person causes the death of a law enforcement officer who is in the line of duty.

B. Homicide, as prescribed in subsection A, paragraph 2 of this section, requires no specific mental state other than what is required for the commission of any of the enumerated felonies.

C. An offense under subsection A, paragraph 1 of this section applies to an unborn child in the womb at any stage of its development. A person shall not be prosecuted under subsection A, paragraph 1 of this section if any of the following applies:

1. The person was performing an abortion for which the consent of the pregnant woman, or a person authorized by law to act on the pregnant woman's behalf, has been obtained or for which the consent was implied or authorized by law.
2. The person was performing medical treatment on the pregnant woman or the pregnant woman's unborn child.
3. The person was the unborn child's mother.

D. First degree murder is a class 1 felony and is punishable by death or life imprisonment as provided by sections 13-703 and 13-703.01.

13-1204. Aggravated assault; classification; definition

A. A person commits aggravated assault if the person commits assault as defined in section 13-1203 under any of the following circumstances:

1. If the person causes serious physical injury to another.
2. If the person uses a deadly weapon or dangerous instrument.
3. If the person commits the assault after entering the private home of another with the intent to commit the assault.
4. If the person is eighteen years of age or older and commits the assault upon a child the age of fifteen years or under.
5. If the person commits the assault knowing or having reason to know that the victim is a peace officer, or a person summoned and directed by the officer while engaged in the execution of any official duties.
6. If the person knowingly takes or attempts to exercise control over a peace officer's or other officer's firearm and the person knows or has reason to know that the victim is a peace officer or other officer employed by one of the agencies listed in paragraph 10, subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection and is engaged in the execution of any official duties.
7. If the person knowingly takes or attempts to exercise control over any weapon other than a firearm that is being used by a peace officer or other officer or that the officer is attempting to use, and the person knows or has reason to know that the victim is a peace officer or other officer employed by one of the agencies listed in paragraph 10, subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection and is engaged in the execution of any official duties.
8. If the person knowingly takes or attempts to exercise control over any implement that is being used by a peace officer or other officer or that the officer is attempting to use, and the person knows or has reason to know that the victim is a peace officer or other officer employed by one of the agencies listed in paragraph 10, subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection and is engaged in the execution of any official duties. For the purposes of this paragraph, "implement" means an object that is designed for or that is capable of restraining or injuring an individual. Implement does not include handcuffs.
9. If the person commits the assault knowing or having reason to know the victim is a teacher or other person employed by any school and the teacher or other employee is upon the grounds of a school or grounds adjacent to the school or is in any part of a building or vehicle used for school purposes, any teacher or school nurse visiting a private home in the course of the teacher's or nurse's professional duties or any teacher engaged in any authorized and organized classroom activity held on other than school grounds.
10. If the person meets both of the following conditions:
 - (a) Is imprisoned or otherwise subject to the custody of any of the following:
 - (i) The state department of corrections.
 - (ii) The department of juvenile corrections.
 - (iii) A law enforcement agency.
 - (iv) A county or city jail or an adult or juvenile detention facility of a city or county.
 - (v) Any other entity that is contracting with the state department of corrections, the department of juvenile corrections, a law enforcement agency, another state, any private correctional facility, a

county, a city or the federal bureau of prisons or other federal agency that has responsibility for sentenced or unsentenced prisoners.

(b) Commits an assault knowing or having reason to know that the victim is acting in an official capacity as an employee of any of the entities prescribed by subdivision (a) of this paragraph.

11. If the person commits the assault while the victim is bound or otherwise physically restrained or while the victim's capacity to resist is substantially impaired.

12. If the person commits the assault knowing or having reason to know that the victim is a fire fighter, fire investigator, fire inspector, emergency medical technician or paramedic engaged in the execution of any official duties, or a person summoned and directed by such individual while engaged in the execution of any official duties.

13. If the person commits the assault knowing or having reason to know that the victim is a licensed health care practitioner who is certified or licensed pursuant to title 32, chapter 13, 15, 17 or 25, or a person summoned and directed by the licensed health care practitioner while engaged in the person's professional duties. The provisions of this paragraph do not apply if the person who commits the assault is seriously mentally ill, as defined in section 36-550, or is afflicted with Alzheimer's disease or related dementia.

14. If the person commits assault by any means of force which causes temporary but substantial disfigurement, temporary but substantial loss or impairment of any body organ or part or a fracture of any body part.

15. If the person commits assault as prescribed by section 13-1203, subsection A, paragraph 1 or 3 and the person is in violation of an order of protection issued against the person pursuant to section 13-3602 or 13-3624.

16. If the person commits the assault knowing or having reason to know that the victim is a prosecutor.

B. Except pursuant to subsections C and D of this section, aggravated assault pursuant to subsection A, paragraph 1, 2 or 6 of this section is a class 3 felony except if the victim is under fifteen years of age in which case it is a class 2 felony punishable pursuant to section 13-604.01. Aggravated assault pursuant to subsection A, paragraph 14 of this section is a class 4 felony. Aggravated assault pursuant to subsection A, paragraph 7 or 10 of this section is a class 5 felony. Aggravated assault pursuant to subsection A, paragraph 3, 4, 5, 8, 9, 11, 12, 13, 15 or 16 of this section is a class 6 felony.

C. Aggravated assault pursuant to subsection A, paragraph 1 or 2 of this section committed on a peace officer while the officer is engaged in the execution of any official duties is a class 2 felony. Aggravated assault pursuant to subsection A, paragraph 14 of this section committed on a peace officer while the officer is engaged in the execution of any official duties is a class 3 felony. Aggravated assault pursuant to subsection A, paragraph 5 of this section resulting in any physical injury to a peace officer while the officer is engaged in the execution of any official duties is a class 5 felony.

D. Aggravated assault pursuant to:

1. Subsection A, paragraph 1 or 2 of this section is a class 2 felony if committed on a prosecutor.
2. Subsection A, paragraph 14 of this section is a class 3 felony if committed on a prosecutor.
3. Subsection A, paragraph 16 of this section is a class 5 felony if the assault results in a physical injury to a prosecutor.

E. For the purposes of this section, "prosecutor" means a county attorney, a municipal prosecutor or the attorney general and includes an assistant or deputy county attorney, municipal prosecutor or attorney general.

13-1306. Unlawfully obtaining labor or services: classification

A. It is unlawful for a person to knowingly obtain the labor or services of another person by doing any of the following:

1. Causing or threatening to cause bodily injury to that person or another person.
2. Restraining or threatening to restrain that person or another person without lawful authority and against that person's will.
3. Withholding that person's governmental records, identifying information or other personal property.

B. A person who violates this section is guilty of a class 4 felony.

13-1307. Sex trafficking; classification

A. It is unlawful for a person to knowingly recruit, entice, harbor, transport, provide or obtain by any means another person with the intent of causing the other person to engage in prostitution by force, fraud or coercion.

B. A person who violates this section is guilty of a class 2 felony, except that, if the offense is committed against a person who is under fifteen years of age, the offense is a dangerous crime against children punishable pursuant to section 13-604.01.

13-1308. Trafficking of persons for forced labor or services; classification; definitions

A. It is unlawful for a person to either:

1. Knowingly traffic another person with the intent to or knowledge that the other person will be subject to forced labor or services.
2. Knowingly benefit, financially or by receiving anything of value, from participation in a venture that has engaged in an act in violation of section 13-1306, section 13-1307 or this section.

B. A violation of this section is a class 2 felony.

C. For the purposes of this section:

1. "Forced labor or services" means labor or services that are performed or provided by another person and that are obtained through a person's either:

- (a) Causing or threatening to cause serious physical injury to any person.
- (b) Restraining or threatening to physically restrain another person.
- (c) Withholding from another person that person's government records, identifying information or personal property.

2. "Traffic" means to transport another person or to entice, recruit, harbor, provide or otherwise obtain another person for transport by deception, coercion or force.

13-1309. Restitution

The court shall order restitution for any violation of section 13-1306, 13-1307 or 13-1308, including the greater of either the gross income or value to the defendant of the victim's labor or services or the value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the fair labor standards act of 1938 (52 Stat. 1060; 29 United States Code sections 201 through 219).

13-1407. Defenses

- A. It is a defense to a prosecution pursuant to sections 13-1404 and 13-1405 involving a minor if the act was done in furtherance of lawful medical practice.
- B. It is a defense to a prosecution pursuant to sections 13-1404 and 13-1405 in which the victim's lack of consent is based on incapacity to consent because the victim was fifteen, sixteen or seventeen years of age if at the time the defendant engaged in the conduct constituting the offense the defendant did not know and could not reasonably have known the age of the victim.
- C. It is a defense to a prosecution pursuant to section 13-1402, 13-1404, 13-1405 or 13-1406 if the act was done by a duly licensed physician or registered nurse or a person acting under the physician's or nurse's direction, or any other person who renders emergency care at the scene of an emergency occurrence, the act consisted of administering a recognized and lawful form of treatment that was reasonably adapted to promoting the physical or mental health of the patient and the treatment was administered in an emergency when the duly licensed physician or registered nurse or a person acting under the physician's or nurse's direction, or any other person rendering emergency care at the scene of an emergency occurrence, reasonably believed that no one competent to consent could be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.
- D. It is a defense to a prosecution pursuant to section 13-1404 or 13-1405 that the person was the spouse of the other person at the time of commission of the act. It is not a defense to a prosecution pursuant to section 13-1406 that the defendant was the spouse of the victim at the time of commission of the act.
- E. It is a defense to a prosecution pursuant to section 13-1404 or 13-1410 that the defendant was not motivated by a sexual interest. It is a defense to a prosecution pursuant to section 13-1404 involving a victim under fifteen years of age that the defendant was not motivated by a sexual interest.
- F. It is a defense to a prosecution pursuant to section 13-1405 if the victim is fifteen, sixteen or seventeen years of age, the defendant is under nineteen years of age or attending high school and is no more than twenty-four months older than the victim and the conduct is consensual.

13-1420. Sexual offense; evidence of similar crimes; definition

A. If the defendant is charged with committing a sexual offense, the court may admit evidence that the defendant committed past acts that would constitute a sexual offense and may consider the bearing this evidence has on any matter to which it is relevant.

B. This section does not limit the admission or consideration of evidence under any court rule.

C. For the purposes of this section, "sexual offense" means any of the following:

1. Sexual abuse in violation of section 13-1404.
2. Sexual conduct with a minor in violation of section 13-1405.
3. Sexual assault in violation of section 13-1406.
4. Sexual assault of a spouse if the offense was committed before the effective date of this amendment to this section.
5. Molestation of a child in violation of section 13-1410.
6. Continuous sexual abuse of a child in violation of section 13-1417.
7. Sexual misconduct by a behavioral health professional in violation of section 13-1418.
8. Commercial sexual exploitation of a minor in violation of section 13-3552.
9. Sexual exploitation of a minor in violation of section 13-3553.

13-1423. Violent sexual assault; natural life sentence

A. A person is guilty of violent sexual assault if in the course of committing an offense under section 13-1404, 13-1405, 13-1406 or 13-1410 the offense involved the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or involved the intentional or knowing infliction of serious physical injury and the person has a historical prior felony conviction for a sexual offense under this chapter or any offense committed outside this state that if committed in this state would constitute a sexual offense under this chapter.

B. Notwithstanding sections 13-604 and 13-604.01, a person who is guilty of a violent sexual assault shall be sentenced to life imprisonment and the court shall order that the person not be released on any basis for the remainder of the person's natural life.

13-2008. Taking identity of another person or entity; classification

A. A person commits taking the identity of another person or entity if the person knowingly takes, purchases, manufactures, records, possesses or uses any personal identifying information or entity identifying information of another person or entity, including a real or fictitious person or entity, without the consent of that other person or entity, with the intent to obtain or use the other person's or entity's identity for any unlawful purpose or to cause loss to a person or entity whether or not the person or entity actually suffers any economic loss as a result of the offense.

B. On the request of a person or entity, a peace officer in any jurisdiction in which an element of the offense is committed, a result of the offense occurs or the person or entity whose identity is taken resides or is located shall take a report. The peace officer may provide a copy of the report to any other law enforcement agency that is located in a jurisdiction in which a violation of this section occurred.

C. If a defendant is alleged to have committed multiple violations of this section within the same county, the prosecutor may file a complaint charging all of the violations and any related charges under other sections that have not been previously filed in any precinct in which a violation is alleged to have occurred. If a defendant is alleged to have committed multiple violations of this section within the state, the prosecutor may file a complaint charging all of the violations and any related charges under other sections that have not been previously filed in any county in which a violation is alleged to have occurred.

D. This section does not apply to a violation of section 4-241 by a person who is under twenty-one years of age.

E. Taking the identity of another person or entity is a class 4 felony.

13-2009. Aggravated taking identity of another person or entity; classification

A. A person commits aggravated taking the identity of another person or entity if the person knowingly takes, purchases, manufactures, records, possesses or uses any personal identifying information or entity identifying information of either:

1. Five or more other persons or entities, including real or fictitious persons or entities, without the consent of the other persons or entities, with the intent to obtain or use the other persons' or entities' identities for any unlawful purpose or to cause loss to the persons or entities whether or not the persons or entities actually suffer any economic loss.
2. Another person or entity, including a real or fictitious person or entity, without the consent of that other person or entity, with the intent to obtain or use the other person's or entity's identity for any unlawful purpose and causes another person or entity to suffer an economic loss of three thousand dollars or more.

B. In an action for aggravated taking the identity of another person or entity under subsection A, paragraph 1 of this section, proof of possession out of the regular course of business of the personal identifying information or entity identifying information of five or more other persons or entities may give rise to an inference that the personal identifying information or entity identifying information of the five or more other persons or entities was possessed for an unlawful purpose.

C. This section does not apply to a violation of section 4-241 by a person who is under twenty-one years of age.

D. Aggravated taking the identity of another person or entity is a class 3 felony.

13-2010. Trafficking in the identity of another person or entity; classification

- A. A person commits trafficking in the identity of another person or entity if the person knowingly sells, transfers or transmits any personal identifying information or entity identifying information of another person or entity, including a real or fictitious person or entity, without the consent of the other person or entity for any unlawful purpose or to cause loss to the person or entity whether or not the other person or entity actually suffers any economic loss.
- B. This section does not apply to a violation of section 4-241 by a person who is under twenty-one years of age.
- C. Trafficking in the identity of another person or entity is a class 2 felony.

13-2011. Admission tickets; fraudulent creation or possession; classification

A. It is unlawful for a person, with intent to defraud, to forge, alter or possess any ticket, token or paper that is designed for admission to or for the rendering of services by any sports, amusement, concert or other facility that offers services to the general public.

B. A person who violates this section is guilty of a class 1 misdemeanor.

13-2301. Definitions

A. For the purposes of sections 13-2302, 13-2303 and 13-2304:

1. "Collect an extension of credit" means to induce in any way any person to make repayment of that extension.
2. "Creditor" means any person making an extension of credit or any person claiming by, under or through any person making an extension of credit.
3. "Debtor" means any person to whom an extension of credit is made or any person who guarantees the repayment of an extension of credit, or in any manner undertakes to indemnify the creditor against loss resulting from the failure of any person to whom an extension is made to repay the extension.
4. "Extend credit" means to make or renew any loan or to enter into any agreement, tacit or express, whereby the repayment or satisfaction of any debt or claim, whether acknowledged or disputed, valid or invalid, and however arising, may or shall be deferred.
5. "Extortionate extension of credit" means any extension of credit with respect to which it is the understanding of the creditor and the debtor at the time the extension is made that delay in making repayment or failure to make repayment could result in the use of violence or other criminal means to cause harm to the person or the reputation or property of any person.
6. "Extortionate means" means the use, or an express or implicit threat of use, of violence or other criminal means to cause harm to the person or the reputation or property of any person.
7. "Repayment of any extension of credit" means the repayment, satisfaction or discharge in whole or in part of any debt or claim, acknowledged or disputed, valid or invalid, resulting from or in connection with that extension of credit.

B. For the purposes of section 13-2305, 13-2306 or 13-2307:

1. "Dealer in property" means a person who buys and sells property as a business.
2. "Stolen property" means property of another as defined in section 13-1801 that has been the subject of any unlawful taking.
3. "Traffic" means to sell, transfer, distribute, dispense or otherwise dispose of stolen property to another person, or to buy, receive, possess or obtain control of stolen property, with the intent to sell, transfer, distribute, dispense or otherwise dispose of the property to another person.

C. For the purposes of this chapter:

1. "Animal activity" means a commercial enterprise that uses animals for food, clothing or fiber production, agriculture or biotechnology.
2. "Animal facility" means a building or premises where a commercial activity in which the use of animals is essential takes place, which may include a zoo, rodeo, circus, amusement park, hunting preserve and horse and dog event.
3. "Animal or ecological terrorism" means any felony in violation of section 13-2312, subsection B that involves at least three persons acting in concert, that involves the intentional or knowing infliction of property damage in an amount of more than ten thousand dollars to the property that is used by a person for the operation of a lawfully conducted animal activity or to a commercial enterprise that is engaged in a lawfully operated animal facility or research facility and that involves either:
 - (a) The use of a deadly weapon or dangerous instrument.
 - (b) The intentional or knowing infliction of serious physical injury on a person engaged in a lawfully conducted animal activity or participating in a lawfully conducted animal facility or research facility.

4. "Biological agent" means any microorganism, virus, infectious substance or biological product that may be engineered through biotechnology or any naturally occurring or bioengineered component of any microorganism, virus, infectious substance or biological product and that is capable of causing any of the following:

- (a) Death, disease or physical injury in a human, animal, plant or other living organism.
- (b) The deterioration or contamination of air, food, water, equipment, supplies or material of any kind.

5. "Combination" means persons who collaborate in carrying on or furthering the activities or purposes of a criminal syndicate even though such persons may not know each other's identity, membership in the combination changes from time to time or one or more members may stand in a wholesaler-retailer or other arm's length relationship with others as to activities or dealings between or among themselves in an illicit operation.

6. "Communication service provider" has the same meaning prescribed in section 13-3001.

7. "Criminal syndicate" means any combination of persons or enterprises engaging, or having the purpose of engaging, on a continuing basis in conduct that violates any one or more provisions of any felony statute of this state.

8. "Explosive agent" means an explosive as defined in section 13-3101 and flammable fuels or fire accelerants in amounts over fifty gallons but excludes:

- (a) Fireworks as defined in section 36-1601.
- (b) Firearms.
- (c) A propellant actuated device or propellant actuated industrial tool.
- (d) A device that is commercially manufactured primarily for the purpose of illumination.
- (e) A rocket having a propellant charge of less than four ounces.

9. "Material support or resources" includes money or other financial securities, financial services, lodging, sustenance, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, disguises and other physical assets but does not include medical assistance, legal assistance or religious materials.

10. "Public establishment" means a structure that is owned, leased or operated by this state or a political subdivision of this state or a health care institution as defined in section 36-401.

11. "Research facility" means a laboratory, institution, medical care facility, government facility, public or private educational institution or nature preserve at which a scientific test, experiment or investigation involving the use of animals is lawfully carried out, conducted or attempted.

12. "Terrorism" means any felony, including any completed or preparatory offense, that involves the use of a deadly weapon or a weapon of mass destruction or the intentional or knowing infliction of serious physical injury with the intent to either:

- (a) Influence the policy or affect the conduct of this state or any of the political subdivisions, agencies or instrumentalities of this state.
- (b) Cause substantial damage to or substantial interruption of public communications, communication service providers, public transportation, common carriers, public utilities, public establishments or other public services.

13. "Toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi or infectious substances or a recombinant molecule, whatever its origin or method of reproduction, including:

- (a) Any poisonous substance or biological product that may be engineered through biotechnology and that is produced by a living organism.

(b) Any poisonous isomer or biological product, homolog or derivative of such substance.

14. "Vector" means a living organism or molecule, including a recombinant molecule or biological product that may be engineered through biotechnology, that is capable of carrying a biological agent or toxin to a host.

15. "Weapon of mass destruction" means:

(a) Any device or object that is designed or that the person intends to use to cause multiple deaths or serious physical injuries through the use of an explosive agent or the release, dissemination or impact of a toxin, biological agent, poisonous chemical, or its precursor, or any vector.

(b) Except as authorized and used in accordance with a license, registration or exemption by the radiation regulatory agency pursuant to section 30-672, any device or object that is designed or that the person intends to use to release radiation or radioactivity at a level that is dangerous to human life.

D. For the purposes of sections 13-2312, 13-2313, 13-2314 and 13-2315, unless the context otherwise requires:

1. "Control", in relation to an enterprise, means the possession of sufficient means to permit substantial direction over the affairs of an enterprise and, in relation to property, means to acquire or possess.

2. "Enterprise" means any corporation, partnership, association, labor union or other legal entity or any group of persons associated in fact although not a legal entity.

3. "Financial institution" means any business under the jurisdiction of the department of financial institutions or a banking or securities regulatory agency of the United States, a business coming within the definition of a bank, financial agency or financial institution as prescribed by 31 United States Code section 5312 or 31 Code of Federal Regulations section 103.11 or a business under the jurisdiction of the securities division of the corporation commission, the state real estate department or the department of insurance.

4. "Racketeering" means any act, including any preparatory or completed offense, that is chargeable or indictable under the laws of the state or country in which the act occurred and, if the act occurred in a state or country other than this state, that would be chargeable or indictable under the laws of this state if the act had occurred in this state, and that would be punishable by imprisonment for more than one year under the laws of this state and, if the act occurred in a state or country other than this state, under the laws of the state or country in which the act occurred, regardless of whether the act is charged or indicted, and the act involves either:

(a) Terrorism, animal terrorism or ecological terrorism that results or is intended to result in a risk of serious physical injury or death.

(b) Any of the following acts if committed for financial gain:

(i) Homicide.

(ii) Robbery.

(iii) Kidnapping.

(iv) Forgery.

(v) Theft.

(vi) Bribery.

(vii) Gambling.

(viii) Usury.

- (ix) Extortion.
- (x) Extortionate extensions of credit.
- (xi) Prohibited drugs, marijuana or other prohibited chemicals or substances.
- (xii) Trafficking in explosives, weapons or stolen property.
- (xiii) Participating in a criminal syndicate.
- (xiv) Obstructing or hindering criminal investigations or prosecutions.
- (xv) Asserting false claims including, but not limited to, false claims asserted through fraud or arson.
- (xvi) Intentional or reckless false statements or publications concerning land for sale or lease or sale of subdivided lands or sale and mortgaging of unsubdivided lands.
- (xvii) Resale of realty with intent to defraud.
- (xviii) Intentional or reckless fraud in the purchase or sale of securities.
- (xix) Intentional or reckless sale of unregistered securities or real property securities.
- (xx) A scheme or artifice to defraud.
- (xxi) Obscenity.
- (xxii) Sexual exploitation of a minor.
- (xxiii) Prostitution.
- (xxiv) Restraint of trade or commerce in violation of section 34-252.
- (xxv) Terrorism.
- (xxvi) Money laundering.
- (xxvii) Obscene or indecent telephone communications to minors for commercial purposes.
- (xxviii) Counterfeiting marks as proscribed in section 44-1453.
- (xxix) Animal terrorism or ecological terrorism.
- (xxx) Smuggling of human beings.

5. "Records" means any book, paper, writing, computer program, data, image or information that is collected, recorded, preserved or maintained in any form of storage medium.

6. "Remedy racketeering" means to enter a civil judgment pursuant to this chapter or chapter 39 of this title against property or a person who is subject to liability, including liability for injury to the state that is caused by racketeering or by actions in concert with racketeering.

E. For the purposes of sections 13-2316, 13-2316.01 and 13-2316.02:

1. "Access" means to instruct, communicate with, store data in, retrieve data from or otherwise make use of any resources of a computer, computer system or network.

2. "Access device" means any card, token, code, account number, electronic serial number, mobile or personal identification number, password, encryption key, biometric identifier or other means of account access, including a canceled or revoked access device, that can be used alone or in conjunction with another access device to obtain money, goods, services, computer or network access or any other thing of value or that can be used to initiate a transfer of any thing of value.

3. "Computer" means an electronic device that performs logic, arithmetic or memory functions by the manipulations of electronic or magnetic impulses and includes all input, output, processing, storage, software or communication facilities that are connected or related to such a device in a system or network.

4. "Computer contaminant" means any set of computer instructions that is designed to modify, damage, destroy, record or transmit information within a computer, computer system or network without the intent or permission of the owner of the information, computer system or network.

Computer contaminant includes a group of computer instructions, such as viruses or worms, that is self-replicating or self-propagating and that is designed to contaminate other computer programs or computer data, to consume computer resources, to modify, destroy, record or transmit data or in some other fashion to usurp the normal operation of the computer, computer system or network.

5. "Computer program" means a series of instructions or statements, in a form acceptable to a computer, that permits the functioning of a computer system in a manner designed to provide appropriate products from the computer system.

6. "Computer software" means a set of computer programs, procedures and associated documentation concerned with the operation of a computer system.

7. "Computer system" means a set of related, connected or unconnected computer equipment, devices and software, including storage, media and peripheral devices.

8. "Critical infrastructure resource" means any computer or communications system or network that is involved in providing services necessary to ensure or protect the public health, safety or welfare, including services that are provided by any of the following:

(a) Medical personnel and institutions.

(b) Emergency services agencies.

(c) Public and private utilities, including water, power, communications and transportation services.

(d) Fire departments, districts or volunteer organizations.

(e) Law enforcement agencies.

(f) Financial institutions.

(g) Public educational institutions.

(h) Government agencies.

9. "False or fraudulent pretense" means the unauthorized use of an access device or the use of an access device to exceed authorized access.

10. "Financial instrument" means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card or marketable security or any other written instrument as defined in section 13-2001 that is transferable for value.

11. "Network" includes a complex of interconnected computer or communication systems of any type.

12. "Property" means financial instruments, information, including electronically produced data, computer software and programs in either machine or human readable form, and anything of value, tangible or intangible.

13. "Proprietary or confidential computer security information" means information about a particular computer, computer system or network that relates to its access devices, security practices, methods and systems, architecture, communications facilities, encryption methods and system vulnerabilities and that is not made available to the public by its owner or operator.

14. "Services" includes computer time, data processing, storage functions and all types of communication functions.

13-2319. Smuggling; classification; definition

- A. It is unlawful for a person to intentionally engage in the smuggling of human beings for profit or commercial purpose.
- B. A violation of this statute is a class 4 felony.
- C. For the purposes of this section "smuggling of human beings" means the transportation or procurement of transportation by a person or an entity that knows or has reason to know that the person or persons transported or to be transported are not United States citizens, permanent resident aliens or persons otherwise lawfully in this state.

13-2411. Impersonating a peace officer; classification; definition

A. A person commits impersonating a peace officer if the person, without lawful authority, pretends to be a peace officer and engages in any conduct with the intent to induce another to submit to the person's pretended authority or to rely upon the person's pretended acts.

B. It is not a defense to a prosecution under this section that the law enforcement agency the person pretended to represent did not in fact exist or that the law enforcement agency the person pretended to represent did not in fact possess the authority claimed for it.

C. Impersonating a peace officer is a class 6 felony, except that impersonating a peace officer during the commission of any of the following felonies is a class 4 felony:

1. Negligent homicide.
2. Manslaughter.
3. First degree murder.
4. Second degree murder.
5. Assault.
6. Aggravated assault.
7. Sexual assault.
8. Violent sexual assault.
9. Sexual abuse.
10. Unlawfully administering intoxicating liquors, narcotic drug or dangerous drug.
11. Attack by a person's vicious animal pursuant to section 13-1208.
12. Drive by shooting.
13. Discharging a firearm at a structure.
14. Aggravated criminal damage.
15. Theft.
16. Theft by extortion.
17. Theft of a credit card or obtaining a credit card by fraudulent means.
18. Misconduct involving weapons.
19. Misconduct involving explosives.
20. Depositing explosives.
21. Procuring or placing persons in a house of prostitution.
22. Dangerous crimes against children pursuant to section 13-604.01.
23. Burglary.
24. Arson.
25. Kidnapping.
26. Robbery.

D. For the purposes of this section, "peace officer" has the same meaning prescribed in section 1-215 and includes any federal law enforcement officer or agent who has the power to make arrests pursuant to federal law.

13-2412. Refusing to provide truthful name when lawfully detained; classification

A. It is unlawful for a person, after being advised that the person's refusal to answer is unlawful, to fail or refuse to state the person's true full name on request of a peace officer who has lawfully detained the person based on reasonable suspicion that the person has committed, is committing or is about to commit a crime. A person detained under this section shall state the person's true full name, but shall not be compelled to answer any other inquiry of a peace officer.

B. A person who violates this section is guilty of a class 2 misdemeanor.

13-2907. False reporting; emergency response costs; classification; definitions

A. A person commits false reporting by initiating or circulating a report of a bombing, fire, offense or other emergency knowing that such report is false and intending:

1. That it will cause action of any sort by an official or volunteer agency organized to deal with emergencies; or
2. That it will place a person in fear of imminent serious physical injury; or
3. That it will prevent or interrupt the occupation of any building, room, place of assembly, public place or means of transportation.

B. A person who commits a violation of this section that results in an emergency response or investigation of false reporting and who is convicted of a violation of this section is liable for the expenses that are incurred incident to the emergency response or the investigation of the commission of false reporting, except that if the person is a juvenile who is adjudicated delinquent of a violation of this section, the court may order the juvenile to pay the expenses incurred under this subsection as restitution. The expenses are a debt of the person. The public agency, for profit entity or not-for-profit entity that incurred the expenses may collect the debt proportionally. The liability that is imposed under this subsection is in addition to any other liability that may be imposed.

C. False reporting is a class 1 misdemeanor, except that a second or subsequent violation is a class 6 felony.

D. For the purposes of this section:

1. "Expenses" means any reasonable costs that are directly incurred by a public agency, for profit entity or not-for-profit entity that makes an appropriate emergency response to an incident or an investigation of the commission of false reporting. Expenses includes the costs of providing police, fire fighting, rescue and emergency medical services at the scene of an incident and the salaries of the persons who respond to the incident. Expenses does not include any charges that are assessed by an ambulance service that is regulated pursuant to title 36, chapter 21.1, article 2.
2. "Public agency" means this state, any city, county, municipal corporation or district, any Arizona federally recognized native American tribe or any other public authority that is located in whole or in part in this state and that provides police, fire fighting, medical or other emergency services.

13-2907.03. False reporting of sexual assault involving a spouse; classification

A person who intentionally makes a false report of sexual assault involving a spouse knowing the report is false or a person who coerces another person to make a false report of sexual assault involving a spouse knowing the report is false is guilty of a class 1 misdemeanor.

13-2926. Abandonment or concealment of a dead body: classification

- A. It is unlawful for a person to knowingly move a dead human body or parts of a human body with the intent to abandon or conceal the dead human body or parts.
- B. This section does not apply to the disposition, transportation or other handling of dead human remains for any purpose authorized under title 32, chapter 12, title 32, chapter 20, article 6 and title 36, chapters 3 and 7.
- C. A person who violates this section is guilty of a class 5 felony.

13-3112. Concealed weapons; qualification; application; permit to carry; certificate of firearms proficiency; training program; program instructors; report; applicability; violation; classification

A. The department of public safety shall issue a permit to carry a concealed weapon to a person who is qualified under this section. The person shall carry the permit at all times when the person is in actual possession of the concealed weapon and shall present the permit for inspection to any law enforcement officer on request.

B. A person who fails to carry the permit at all times that the person is in actual possession of a concealed weapon may have the permit suspended. The department of public safety shall be notified of all violations of this section and shall immediately suspend the permit. The permittee shall present the permit to the law enforcement agency or the court. On notification of the presentation of the permit, the department shall restore the permit.

C. The permit of a person who is arrested or indicted for an offense that would make the person unqualified under the provisions of section 13-3101, subsection A, paragraph 6 or this section shall be immediately suspended and seized. The permit of a person who becomes unqualified on conviction of that offense shall be revoked. The permit shall be restored on presentation of documentation from the court if the permittee is found not guilty or the charges are dismissed. The permit shall be restored on presentation of documentation from the county attorney that the charges against the permittee were dropped or dismissed.

D. A person who fails to present a permit for inspection on the request of a law enforcement officer is guilty of a class 2 misdemeanor. A person shall not be convicted of a violation of this subsection if the person produces to the court a legible permit that is issued to the person and that was valid at the time the violation of this subsection occurred.

E. The department of public safety shall issue a permit to an applicant who meets all of the following conditions:

1. Is a resident of this state or a United States citizen.
2. Is twenty-one years of age or older.
3. Is not under indictment for and has not been convicted in any jurisdiction of a felony.
4. Does not suffer from mental illness and has not been adjudicated mentally incompetent or committed to a mental institution.
5. Is not unlawfully present in the United States.
6. Satisfactorily completes a firearms safety training program approved by the department of public safety pursuant to subsection O of this section. This paragraph does not apply to:
 - (a) A person who is an active duty Arizona peace officer standards and training board certified or federally credentialed peace officer or who is honorably retired as a federal, state or local peace officer with a minimum of ten years of service.
 - (b) A person who is an active duty county detention officer and who has been weapons certified by the officer's employing agency.

F. The application shall be completed on a form prescribed by the department of public safety. The form shall not require the applicant to disclose the type of firearm for which a permit is sought. The applicant shall attest under penalty of perjury that all of the statements made by the applicant are true. The applicant shall submit the application to the department with a certificate of completion from an approved firearms safety training program, two sets of fingerprints and a reasonable fee determined by the director of the department.

G. On receipt of a concealed weapon permit application, the department of public safety shall conduct a check of the applicant's criminal history record pursuant to section 41-1750. The department of public safety may exchange fingerprint card information with the federal bureau of investigation for federal criminal history record checks.

H. The department of public safety shall complete all of the required qualification checks within sixty days after receipt of the application and shall issue a permit within fifteen working days after completing the qualification checks if the applicant meets all of the conditions specified in subsection E of this section. If a permit is denied, the department of public safety shall notify the applicant in writing within fifteen working days after the completion of all of the required qualification checks and shall state the reasons why the application was denied. On receipt of the notification of the denial, the applicant has twenty days to submit any additional documentation to the department. On receipt of the additional documentation, the department shall reconsider its decision and inform the applicant within twenty days of the result of the reconsideration. If denied, the applicant shall be informed that the applicant may request a hearing pursuant to title 41, chapter 6, article 10.

I. On issuance, a permit is valid for five years, except a permit that is held by a member of the United States armed forces, including a member of the Arizona national guard or a member of the reserves of any military establishment of the United States, who is on federal active duty and who is deployed overseas shall be extended until ninety days after the end of the member's overseas deployment.

J. The department of public safety shall maintain a computerized permit record system that is accessible to criminal justice agencies for the purpose of confirming the permit status of any person who claims to hold a valid permit issued by this state. This information shall not be available to any other person or entity except on an order from a state or federal court.

K. Notwithstanding subsection J of this section, it is a defense to any charge for carrying a deadly weapon without a permit by a member of the United States armed forces, including a member of the Arizona national guard or a member of the reserves of any military establishment of the United States, if the member was on federal active duty at the time the permit expired and the member presents documentation indicating release from active duty or reassignment from overseas deployment within the preceding ninety days.

L. A permit issued pursuant to this section is renewable every five years. Before a permit may be renewed, a criminal history records check shall be conducted pursuant to section 41-1750 within sixty days after receipt of the application for renewal. For the purposes of the first permit renewal only, the permit holder is required to submit additional fingerprints pursuant to this subsection. For the purposes of the second or subsequent permit renewal, the permit holder is not required to submit additional fingerprints pursuant to this subsection.

M. Applications for renewal shall be accompanied by a fee determined by the director of the department of public safety. A certificate of completion of a two-hour refresher firearms safety training program approved by the director of the department is required before a renewal permit may be issued and shall accompany an application for renewal.

N. The department of public safety shall suspend or revoke a permit issued under this section if the permit holder becomes ineligible pursuant to subsection E of this section. The department of public safety shall notify the permit holder in writing within fifteen working days after the revocation or suspension and shall state the reasons for the revocation or suspension.

O. An organization shall apply to the department of public safety for approval of its firearms safety training program. The department shall approve a program that meets the following requirements:

1. Is at least eight hours in length.
2. Is conducted on a pass or fail basis.
3. Addresses all of the following topics in a format approved by the director of the department:
 - (a) Legal issues relating to the use of deadly force.
 - (b) Weapon care and maintenance.
 - (c) Mental conditioning for the use of deadly force.
 - (d) Safe handling and storage of weapons.
 - (e) Marksmanship.
 - (f) Judgmental shooting.
4. Is conducted by instructors who submit to a background investigation, including a check for warrants and a criminal history records check.

P. If approved pursuant to subsection O of this section, the organization shall submit to the department of public safety two sets of fingerprints from each instructor and a fee to be determined by the director of the department of public safety. On receipt of the fingerprints and fee, the department of public safety shall conduct a check of each instructor's criminal history record pursuant to section 41-1750. The department of public safety may exchange this fingerprint card information with the federal bureau of investigation for federal criminal history record checks.

Q. The proprietary interest of all approved instructors and programs shall be safeguarded, and the contents of any training program shall not be disclosed to any person or entity other than a bona fide criminal justice agency, except upon an order from a state or federal court.

R. If the department of public safety rejects a program, the rejected organization may request a hearing pursuant to title 41, chapter 6, article 10.

S. The department of public safety shall maintain information comparing the number of permits requested, the number of permits issued and the number of permits denied. The department shall annually report this information to the governor and the legislature.

T. The director of the department of public safety shall adopt rules for the purpose of implementing and administering the concealed weapons permit program including fees relating to permits and certificates that are issued pursuant to this section.

U. The department of public safety shall enter into reciprocal agreements with states that have concealed weapons laws substantially similar to this section for the purpose of establishing a basis under which a concealed weapons license or permit that is issued by either state may be used by the licensee or permittee within the jurisdiction of either state. If another state requires this state to enter into a reciprocal agreement before accepting a concealed weapons permit issued in this state, the department of public safety shall enter into the agreement if the issuing authority for the other state:

1. Issues a permit with an expiration date printed on the permit.
2. Is available to verify the permit status for law enforcement purposes within three business days of a request for verification.
3. Has disqualification, suspension and revocation requirements for concealed weapons permits.
4. Requires that an applicant for a concealed weapons permit meet all of the following conditions:
 - (a) Submits to a criminal history records check.
 - (b) Is not prohibited from possessing firearms pursuant to federal law.

(c) Satisfactorily completes a firearms safety program.

V. Notwithstanding subsection U of this section, unless a person would be a prohibited possessor in this state, a person who is a resident of another state and who is temporarily in this state may carry a concealed weapon in this state without a permit issued pursuant to this section if both of the following apply:

1. The person is legally in this state.

2. The person presents a valid concealed weapons permit from another state on the request of a law enforcement officer if the issuing authority for the other state:

(a) Issues a permit with an expiration date printed on the permit.

(b) Has disqualification, suspension and revocation requirements for concealed weapons permits.

(c) Requires that an applicant for a concealed weapons permit meet all of the following conditions:

(i) Submits to a criminal history records check.

(ii) Is not prohibited from possessing firearms pursuant to federal law.

(iii) Satisfactorily completes a firearms safety program.

W. Notwithstanding the provisions of this section, a person with a concealed weapons permit from another state may not carry a concealed weapon in this state if the person is under twenty-one years of age or is under indictment for, or has been convicted of, a felony offense in any jurisdiction, even if the person's rights have been restored and the conviction is expunged, set aside or vacated.

X. The department of public safety may issue certificates of firearms proficiency according to the Arizona peace officer standards and training board firearms qualification for the purposes of implementing the law enforcement officers safety act of 2004 (P.L. 108-277).

13-3117. Remote stun guns; sales records; use; classification; definitions

A. It is unlawful for a person or entity to do any of the following:

1. Sell an authorized remote stun gun without keeping an accurate sales record as to the identity of the purchaser with the manufacturer of the authorized remote stun gun. The identification that is required by this paragraph shall be verified with a government issued identification. This requirement does not apply to secondary sales.
2. Knowingly use or threaten to use a remote stun gun or an authorized remote stun gun against a law enforcement officer who is engaged in the performance of the officer's official duties.

B. This section does not:

1. Preclude the prosecution of any person for the use of a remote stun gun or an authorized remote stun gun during the commission of any criminal offense.
2. Preclude any justification defense under chapter 4 of this title.

C. The regulation of remote stun guns and authorized remote stun guns is a matter of statewide concern.

D. A violation of:

1. Subsection A, paragraph 1 is a petty offense.
2. Subsection A, paragraph 2 is a class 4 felony.

E. For the purposes of this section:

1. "Authorized remote stun gun" means a remote stun gun that has all of the following:

(a) An electrical discharge that is less than one hundred thousand volts and less than nine joules of energy per pulse.

(b) A serial or identification number on all projectiles that are discharged from the remote stun gun.

(c) An identification and tracking system that, on deployment of remote electrodes, disperses coded material that is traceable to the purchaser through records that are kept by the manufacturer on all remote stun guns and all individual cartridges sold.

(d) A training program that is offered by the manufacturer.

2. "Remote stun gun" means an electronic device that emits an electrical charge and that is designed and primarily employed to incapacitate a person or animal either through contact with electrodes on the device itself or remotely through wired probes that are attached to the device or through a spark, plasma, ionization or other conductive means emitting from the device.

13-3401. Definitions

In this chapter, unless the context otherwise requires:

1. "Administer" means to apply, inject or facilitate the inhalation or ingestion of a substance to the body of a person.
2. "Amidone" means any substance identified chemically as (4-4-diphenyl-6-dimethylamine-heptanone-3), or any salt of such substance, by whatever trade name designated.
3. "Board" means the Arizona state board of pharmacy.
4. "Cannabis" means the following substances under whatever names they may be designated:
 - (a) The resin extracted from any part of a plant of the genus cannabis, and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or its resin. Cannabis does not include oil or cake made from the seeds of such plant, any fiber, compound, manufacture, salt, derivative, mixture or preparation of the mature stalks of such plant except the resin extracted from the stalks or any fiber, oil or cake or the sterilized seed of such plant which is incapable of germination.
 - (b) Every compound, manufacture, salt, derivative, mixture or preparation of such resin or tetrahydrocannabinol.
5. "Coca leaves" means cocaine, its optical isomers and any compound, manufacture, salt, derivative, mixture or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine or substances from which cocaine or ecgonine may be synthesized or made.
6. "Dangerous drug" means the following by whatever official, common, usual, chemical or trade name designated:
 - (a) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances and their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:
 - (i) Alpha-ethyltryptamine.
 - (ii) Aminorex.
 - (iii) 4-bromo-2, 5-dimethoxyphenethylamine.
 - (iv) 4-bromo-2, 5-dimethoxyamphetamine.
 - (v) Bufotenine.
 - (vi) Diethyltryptamine.
 - (vii) 2, 5-dimethoxyamphetamine.
 - (viii) Dimethyltryptamine.
 - (ix) 5-methoxy-3, 4-methylenedioxyamphetamine.
 - (x) 4-methyl-2, 5-dimethoxyamphetamine.
 - (xi) Ibogaine.
 - (xii) Lysergic acid amide.
 - (xiii) Lysergic acid diethylamide.
 - (xiv) Mescaline.
 - (xv) 4-methoxyamphetamine.
 - (xvi) Methoxymethylenedioxyamphetamine (MMDA).
 - (xvii) Methylenedioxyamphetamine (MDA).
 - (xviii) 3, 4-methylenedioxymethamphetamine.

- (xix) 3, 4-methylenedioxy-n-ethylamphetamine.
- (xx) N-ethyl-3-piperidyl benzilate (JB-318).
- (xxi) N-hydroxy-3, 4-methylenedioxyamphetamine.
- (xxii) N-methyl-3-piperidyl benzilate (JB-336).
- (xxiii) N-(1-phenylcyclohexyl) ethylamine (PCE).
- (xxiv) Nabilone.
- (xxv) 1-(1-phenylcyclohexyl) pyrrolidine (PHP).
- (xxvi) 1-(1-(2-thienyl)-cyclohexyl) piperidine (TCP).
- (xxvii) 1-(1-(2-thienyl)-cyclohexyl) pyrrolidine.
- (xxviii) Para-methoxyamphetamine (PMA).
- (xxix) Psilocybin.
- (xxx) Psilocyn.
- (xxxi) Synhexyl.
- (xxxii) Trimethoxyamphetamine (TMA).
- (b) Any material, compound, mixture or preparation which contains any quantity of the following substances and their salts, optical isomers, and salts of optical isomers having a potential for abuse associated with a stimulant effect on the central nervous system:
 - (i) Amphetamine.
 - (ii) Benzphetamine.
 - (iii) Butorphanol.
 - (iv) Cathine ((+)-norpseudoephedrine).
 - (v) Chlorphentermine.
 - (vi) Clortermine.
 - (vii) Diethylpropion.
 - (viii) Fencamfamin.
 - (ix) Fenethylline.
 - (x) Fenproporex.
 - (xi) Mazindol.
 - (xii) Mefenorex.
 - (xiii) Methamphetamine.
 - (xiv) Methcathinone.
 - (xv) 4-methylaminorex.
 - (xvi) Methylphenidate.
 - (xvii) Modafinil.
 - (xviii) N-ethylamphetamine.
 - (xix) N, N-dimethylamphetamine.
 - (xx) Pemoline.
 - (xxi) Phendimetrazine.
 - (xxii) Phenmetrazine.
 - (xxiii) Phentermine.
 - (xxiv) Pipradol.
 - (xxv) Propylhexedrine.
 - (xxvi) Pyrovalerone.

(xxvii) Sibutramine.

(xxviii) Spä ((-)-1-dimethylamino-1,2-diphenylethane).

(c) Any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(i) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, unless specifically excepted.

(ii) Alprazolam.

(iii) Bromazepam.

(iv) Camazepam.

(v) Carisoprodol.

(vi) Chloral betaine.

(vii) Chloral hydrate.

(viii) Chlordiazepoxide.

(ix) Chlorhexadol.

(x) Clobazam.

(xi) Clonazepam.

(xii) Clorazepate.

(xiii) Clotiazepam.

(xiv) Cloxazolam.

(xv) Delorazepam.

(xvi) Diazepam.

(xvii) Dichloralphenazone.

(xviii) Estazolam.

(xix) Ethchlorvynol.

(xx) Ethinamate.

(xxi) Ethyl loflazepate.

(xxii) Fenfluramine.

(xxiii) Fludiazepam.

(xxiv) Flunitrazepam.

(xxv) Flurazepam.

(xxvi) Gamma hydroxy butyrate.

(xxvii) Glutethimide.

(xxviii) Halazepam.

(xxix) Haloxazolam.

(xxx) Ketamine.

(xxxi) Ketazolam.

(xxxii) Loprazolam.

(xxxiii) Lorazepam.

(xxxiv) Lormetazepam.

(xxxv) Lysergic acid.

(xxxvi) Mebutamate.

(xxxvii) Mecloqualone.

(xxxviii) Medazepam.

(xxxix) Meprobamate.

(xl) Methaqualone.

(xli) Methohexital.

(xlii) Methypylon.

(xlili) Midazolam.

(xliv) Nimetazepam.

(xlv) Nitrazepam.

(xlvi) Nordiazepam.

(xlvi) Oxazepam.

(xlviii) Oxazolam.

(xlix) Paraldehyde.

(l) Petrichloral.

(li) Phencyclidine.

(lii) Pinazepam.

(liii) Prazepam.

(liv) Scopolamine.

(lv) Sulfondiethylmethane.

(lvi) Sulfonethylmethane.

(lvii) Sulfonmethane.

(lviii) Quazepam.

(lix) Temazepam.

(lx) Tetrazepam.

(lxi) Tiletamine.

(lxii) Triazolam.

(lxiii) Zaleplon.

(lxiv) Zolazepam.

(lxv) Zolpidem.

(d) Any material, compound, mixture or preparation which contains any quantity of the following anabolic steroids and their salts, isomers or esters:

(i) Boldenone.

(ii) Clostebol (4-chlorotestosterone).

(iii) Dehydrochloromethyltestosterone.

(iv) Drostanolone.

(v) Ethylestrenol.

(vi) Fluoxymesterone.

(vii) Formebolone (formebolone).

(viii) Mesterolone.

(ix) Methandriol.

(x) Methandrostenolone (methandienone).

(xi) Methenolone.

(xii) Methyltestosterone.

(xiii) Mibolerone.

- (xiv) Nandrolone.
- (xv) Norethandrolon.
- (xvi) Oxandrolone.
- (xvii) Oxymesterone.
- (xviii) Oxymetholone.
- (xix) Stanolone (4-dihydrotestosterone).
- (xx) Stanozolol.
- (xxi) Testolactone.
- (xxii) Testosterone.
- (xxiii) Trenbolone.

7. "Deliver" means the actual, constructive or attempted exchange from one person to another, whether or not there is an agency relationship.

8. "Director" means the director of the department of health services.

9. "Dispense" means distribute, leave with, give away, dispose of or deliver.

10. "Drug court program" means a program that is established pursuant to section 13-3422 by the presiding judge of the superior court in cooperation with the county attorney in a county for the purpose of prosecuting, adjudicating and treating drug dependent persons who meet the criteria and guidelines for entry into the program that are developed and agreed on by the presiding judge and the prosecutor.

11. "Drug dependent person" means a person who is using a substance that is listed in paragraph 6, 19, 20, 21 or 28 of this section and who is in a state of psychological or physical dependence, or both, arising from the use of that substance.

12. "Federal act" has the same meaning prescribed in section 32-1901.

13. "Isoamidone" means any substance identified chemically as (4-4-diphenyl-5-methyl-6-dimethylaminohexanone-3), or any salt of such substance, by whatever trade name designated.

14. "IsonipECAINE" means any substance identified chemically as (1-methyl-4-phenyl-piperidine-4-carboxylic acid ethyl ester), or any salt of such substance, by whatever trade name designated.

15. "Ketobemidone" means any substance identified chemically as (4-(3-hydroxyphenyl)-1-methyl-4-piperidylethyl ketone hydrochloride), or any salt of such substance, by whatever trade name designated.

16. "Licensed" or "permitted" means authorized by the laws of this state to do certain things.

17. "Manufacture" means produce, prepare, propagate, compound, mix or process, directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. Manufacture includes any packaging or repackaging or labeling or relabeling of containers. Manufacture does not include any producing, preparing, propagating, compounding, mixing, processing, packaging or labeling done in conformity with applicable state and local laws and rules by a licensed practitioner incident to and in the course of his licensed practice.

18. "Manufacturer" means a person who manufactures a narcotic or dangerous drug or other substance controlled by this chapter.

19. "Marijuana" means all parts of any plant of the genus cannabis, from which the resin has not been extracted, whether growing or not, and the seeds of such plant. Marijuana does not include the mature stalks of such plant or the sterilized seed of such plant which is incapable of germination.

20. "Narcotic drugs" means the following, whether of natural or synthetic origin and any substance neither chemically nor physically distinguishable from them:

- (a) Acetyl-alpha-methylfentanyl.
- (b) Acetylmethadol.
- (c) Alfentanil.
- (d) Allylprodine.
- (e) Alphacetylmethadol.
- (f) Alphameprodine.
- (g) Alphamethadol.
- (h) Alpha-methylfentanyl.
- (i) Alpha-methylthiofentanyl.
- (j) Alphaprodine.
- (k) Amidone (methadone).
- (l) Anileridine.
- (m) Benzethidine.
- (n) Benzylfentanyl.
- (o) Betacetylmethadol.
- (p) Beta-hydroxyfentanyl.
- (q) Beta-hydroxy-3-methylfentanyl.
- (r) Betameprodine.
- (s) Betamethadol.
- (t) Betaprodine.
- (u) Bezitramide.
- (v) Buprenorphine and its salts.
- (w) Cannabis.
- (x) Carfentanil.
- (y) Clonitazene.
- (z) Coca leaves.
- (aa) Dextromoramide.
- (bb) Dextropropoxyphene.
- (cc) Diampromide.
- (dd) Diethylthiambutene.
- (ee) Difenoxin.
- (ff) Dihydrocodeine.
- (gg) Dimenoxadol.
- (hh) Dimepheptanol.
- (ii) Dimethylthiambutene.
- (jj) Dioxaphetyl butyrate.
- (kk) Diphenoxylate.
- (ll) Dipipanone.
- (mm) Ethylmethylthiambutene.
- (nn) Etonitazene.
- (oo) Etoxeridine.

(pp) Fentanyl.
(qq) Furethidine.
(rr) Hydroxypethidine.
(ss) Isoamidone (isomethadone).
(tt) Pethidine (meperidine).
(uu) Ketobemidone.
(vv) Levomethorphan.
(ww) Levomoramide.
(xx) Levophenacilmorphan.
(yy) Levorphanol.
(zz) Metazocine.
(aaa) 3-methylfentanyl.
(bbb) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP).
(ccc) 3-methylthiofentanyl.
(ddd) Morpheridine.
(eee) Noracymethadol.
(fff) Norlevorphanol.
(ggg) Normethadone.
(hhh) Norpipanone.
(iii) Opium.
(jjj) Para-fluorofentanyl.
(kkk) Pentazocine.
(lll) Phenadoxone.
(mmm) Phenampromide.
(nnn) Phenazocine.
(ooo) 1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine (PEPAP).
(ppp) Phenomorphan.
(qqq) Phenoperidine.
(rrr) Piminodine.
(sss) Piritramide.
(ttt) Proheptazine.
(uuu) Properidine.
(vvv) Propiram.
(www) Racemethorphan.
(xxx) Racemoramide.
(yyy) Racemorphan.
(zzz) Remifentanil.
(aaaa) Sufentanil.
(bbbb) Thénylfentanyl.
(cccc) Thiofentanyl.
(dddd) Tilidine.
(eeee) Trimeperidine.

21. "Opium" means any compound, manufacture, salt, isomer, salt of isomer, derivative, mixture or preparation of the following, but does not include apomorphine or any of its salts:

- (a) Acetorphine.
- (b) Acetyldihydrocodeine.
- (c) Benzylmorphine.
- (d) Codeine.
- (e) Codeine methylbromide.
- (f) Codeine-n-oxide.
- (g) Cyprenorphine.
- (h) Desomorphine.
- (i) Dihydromorphine.
- (j) Drotebanol.
- (k) Ethylmorphine.
- (l) Etorphine.
- (m) Heroin.
- (n) Hydrocodone.
- (o) Hydromorphinol.
- (p) Hydromorphone.
- (q) Levo-alphaacetylmethadol.
- (r) Methyldesorphine.
- (s) Methyldihydromorphine.
- (t) Metopon.
- (u) Morphine.
- (v) Morphine methylbromide.
- (w) Morphine methylsulfonate.
- (x) Morphine-n-oxide.
- (y) Myrophine.
- (z) Nalorphine.
- (aa) Nicocodeine.
- (bb) Nicomorphine.
- (cc) Normorphine.
- (dd) Oxycodone.
- (ee) Oxymorphone.
- (ff) Pholcodine.
- (gg) Thebacon.
- (hh) Thebaine.

22. "Ordinary ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine product" means a product that contains ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine and that is all of the following:

- (a) Approved for sale under the federal act.
- (b) Labeled, advertised and marketed only for an indication that is approved by the federal food and drug administration.
- (c) Either:

(i) A nonliquid that is sold in package sizes of not more than three grams of ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine and that is packaged in blister packs containing not more than two dosage units or, if the use of blister packs is technically infeasible, that is packaged in unit dose packets or pouches.

(ii) A liquid that is sold in package sizes of not more than three grams of ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine.

23. "Peyote" means any part of a plant of the genus *lophophora*, known as the mescal button.

24. "Pharmacy" means a licensed business where drugs are compounded or dispensed by a licensed pharmacist.

25. "Practitioner" means a person licensed to prescribe and administer drugs.

26. "Precursor chemical I" means any material, compound, mixture or preparation which contains any quantity of the following substances and their salts, optical isomers or salts of optical isomers:

(a) N-acetylanthranilic acid.

(b) Anthranilic acid.

(c) Ephedrine.

(d) Ergotamine.

(e) Isosafrole.

(f) Lysergic acid.

(g) Methylamine.

(h) N-ethylephedrine.

(i) N-ethylpseudoephedrine.

(j) N-methylephedrine.

(k) N-methylpseudoephedrine.

(l) Norephedrine.

(m) (-)-Norpseudoephedrine.

(n) Phenylacetic acid.

(o) Phenylpropanolamine.

(p) Piperidine.

(q) Pseudoephedrine.

27. "Precursor chemical II" means any material, compound, mixture or preparation which contains any quantity of the following substances and their salts, optical isomers or salts of optical isomers:

(a) 4-cyano-2-dimethylamino-4, 4-diphenyl butane.

(b) 4-cyano-1-methyl-4-phenylpiperidine.

(c) Chlorephedrine.

(d) Chlorpseudoephedrine.

(e) Ethyl-4-phenylpiperidine-4-carboxylate.

(f) 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.

(g) 1-methyl-4-phenylpiperidine-4-carboxylic acid.

(h) N-formyl amphetamine.

(i) N-formyl methamphetamine.

(j) Phenyl-2-propanone.

(k) 1-piperidinocyclohexane carbonitrile.

(l) 1-pyrrolidinocyclohexane carbonitrile.

28. "Prescription-only drug" does not include a dangerous drug or narcotic drug but means:
- (a) Any drug which because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not generally recognized among experts, qualified by scientific training and experience to evaluate its safety and efficacy, as safe for use except by or under the supervision of a medical practitioner.
 - (b) Any drug that is limited by an approved new drug application under the federal act or section 32-1962 to use under the supervision of a medical practitioner.
 - (c) Every potentially harmful drug, the labeling of which does not bear or contain full and adequate directions for use by the consumer.
 - (d) Any drug required by the federal act to bear on its label the legend "Caution: Federal law prohibits dispensing without prescription" or "RX only".
29. "Produce" means grow, plant, cultivate, harvest, dry, process or prepare for sale.
30. "Regulated chemical" means the following substances in bulk form that are not a useful part of an otherwise lawful product:
- (a) Acetic anhydride.
 - (b) Hypophosphorous acid.
 - (c) Iodine.
 - (d) Sodium acetate.
 - (e) Red phosphorus.
 - (f) Gamma butyrolactone (GBL).
 - (g) 1, 4-butanediol.
 - (h) Butyrolactone.
 - (i) 1, 2 butanolide.
 - (j) 2-oxanalone.
 - (k) Tetrahydro-2-furanone.
 - (l) Dihydro-2(3H)-furanone.
 - (m) Tetramethylene glycol.
31. "Retailer" means either:
- (a) A person other than a practitioner who sells any precursor chemical or regulated chemical to another person for purposes of consumption and not resale, whether or not the person possesses a permit issued pursuant to title 32, chapter 18.
 - (b) A person other than a manufacturer or wholesaler who purchases, receives or acquires more than twenty-four grams of a precursor chemical.
32. "Sale" or "sell" means an exchange for anything of value or advantage, present or prospective.
33. "Sale for personal use" means the retail sale for a legitimate medical use in a single transaction to an individual customer, to an employer for dispensing to employees from first aid kits or medicine chests or to a school for administration pursuant to section 15-344.
34. "Scientific purpose" means research, teaching or chemical analysis.
35. "Suspicious transaction" means a transaction to which any of the following applies:
- (a) A report is required under the federal act.
 - (b) The circumstances would lead a reasonable person to believe that any person is attempting to possess a precursor chemical or regulated chemical for the purpose of unlawful manufacture of a

dangerous drug or narcotic drug, based on such factors as the amount involved, the method of payment, the method of delivery and any past dealings with any participant.

(c) The transaction involves payment for precursor or regulated chemicals in cash or money orders in a total amount of more than two hundred dollars.

(d) The transaction involves a sale, a transfer or furnishing to a retailer for resale without a prescription of ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine that is not an ordinary ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine product.

36. "Threshold amount" means a weight, market value or other form of measurement of an unlawful substance as follows:

(a) One gram of heroin.

(b) Nine grams of cocaine.

(c) Seven hundred fifty milligrams of cocaine base or hydrolyzed cocaine.

(d) Four grams or 50 milliliters of PCP.

(e) Nine grams of methamphetamine, including methamphetamine in liquid suspension.

(f) Nine grams of amphetamine, including amphetamine in liquid suspension.

(g) One-half milliliter of lysergic acid diethylamide, or in the case of blotter dosage units fifty dosage units.

(h) Two pounds of marijuana.

(i) For any combination consisting solely of those unlawful substances listed in subdivisions (a) through (h) of this paragraph, an amount equal to or in excess of the threshold amount, as determined by the application of section 13-3420.

(j) For any unlawful substance not listed in subdivisions (a) through (h) of this paragraph or any combination involving any unlawful substance not listed in subdivisions (a) through (h) of this paragraph, a value of at least one thousand dollars.

37. "Transfer" means furnish, deliver or give away.

38. "Vapor-releasing substance containing a toxic substance" means paint or varnish dispensed by the use of aerosol spray, or any glue, which releases vapors or fumes containing acetone, volatile acetates, benzene, butyl alcohol, ethyl alcohol, ethylene dichloride, isopropyl alcohol, methyl alcohol, methyl ethyl ketone, pentachlorophenol, petroleum ether, toluene, volatile ketones, isophorone, chloroform, methylene chloride, mesityl oxide, xylene, cumene, ethylbenzene, trichloroethylene, mibk, miak, mek or diacetone alcohol or isobutyl nitrite.

39. "Weight" unless otherwise specified includes the entire weight of any mixture or substance that contains a detectable amount of an unlawful substance. If a mixture or substance contains more than one unlawful substance, the weight of the entire mixture or substance is assigned to the unlawful substance that results in the greater offense. If a mixture or substance contains lysergic acid diethylamide, the offense that results from the unlawful substance shall be based on the greater offense as determined by the entire weight of the mixture or substance or the number of blotter dosage units. For the purposes of this paragraph, "mixture" means any combination of substances from which the unlawful substance cannot be removed without a chemical process.

40. "Wholesaler" means a person who in the usual course of business lawfully supplies narcotic drugs, dangerous drugs, precursor chemicals or regulated chemicals that he himself has not produced or prepared, but not to a person for the purpose of consumption by the person, whether or not the

wholesaler has a permit that is issued pursuant to title 32, chapter 18. Wholesaler includes a person who sells, delivers or dispenses a precursor chemical in an amount or under circumstances that would require registration as a distributor of precursor chemicals under the federal act.

13-3404.01. Possession or sale of precursor chemicals, regulated chemicals, substances or equipment; exceptions; classification

A. A person shall not do any of the following:

1. Knowingly possess a precursor chemical II.
 2. Knowingly possess more than twenty-four grams of pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine without a license or permit issued pursuant to title 32, chapter 18.
 3. Knowingly purchase more than three packages, not to exceed nine grams of pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine without a valid prescription order as defined in section 32-1901 or a license or permit issued pursuant to title 32, chapter 18.
 4. Knowingly possess any ephedrine that is uncombined or that is the sole active ingredient of a product or more than twenty-four grams of ephedrine that is combined with another active ingredient in any ephedrine product without a license or permit issued pursuant to title 32, chapter 18.
 5. Knowingly purchase any ephedrine that is uncombined or is the sole active ingredient of a product or more than three packages, not to exceed nine grams of ephedrine that is combined with another active ingredient in any ephedrine product without a license or permit issued pursuant to title 32, chapter 18.
 6. Sell, transfer or otherwise furnish any precursor chemical, regulated chemical or other substance or equipment with knowledge that the recipient will use the precursor chemical, regulated chemical, substance or equipment to unlawfully manufacture a dangerous drug or narcotic drug.
 7. As a manufacturer, wholesaler or retailer, knowingly possess any precursor chemical or regulated chemical from which the label, the national drug control number or the manufacturer's lot number has been removed, altered or obliterated, except that a licensed manufacturer may relabel products as permitted under the federal act.
 8. Knowingly sell, transfer or otherwise furnish more than nine grams of any precursor chemical without a license or permit issued pursuant to title 32, chapter 18.
 9. Sell, transfer or furnish ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine in a total amount of more than nine grams in a single transaction in this state unless the recipient possesses a valid and current permit issued by the board pursuant to title 32, chapter 18.
 10. Sell, transfer or otherwise furnish a precursor chemical in violation of any rule of the board or the department of public safety.
 11. As a wholesaler or retailer, purchase or otherwise acquire or receive a precursor chemical from any person who does not possess a valid and current permit issued pursuant to title 32, chapter 18.
 12. Knowingly participate in any transaction or series of transactions that is structured by any person with the intent to avoid or circumvent the prohibitions or limits on sales established by this section.
- B. A retailer shall not knowingly sell, transfer or otherwise furnish a precursor chemical unless:
1. The transaction occurs in the normal course of business at premises that are permitted pursuant to title 32, chapter 18.
 2. The retailer has a valid and current permit that is issued pursuant to title 32, chapter 18 and that is prominently displayed at the premises where the transaction occurs.
- C. A retailer shall not sell more than a total of three packages, not to exceed nine grams of ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine in a single transaction unless the person has a valid prescription order as defined in section 32-1901.

D. A wholesaler shall not sell, transfer or otherwise furnish a precursor chemical to any person unless:

1. The wholesaler has a valid and current permit issued pursuant to title 32, chapter 18.
2. The recipient has a permit issued pursuant to title 32, chapter 18, is a pharmacy or is a practitioner.
3. The transaction does not involve payment in cash or money orders in an amount of more than one thousand dollars.

E. A manufacturer shall not sell, transfer or otherwise furnish a precursor chemical to any person unless:

1. The recipient is licensed or has a permit issued pursuant to title 32, chapter 18, is a pharmacy or is a practitioner.
2. The transaction does not involve payment in cash or money orders in an amount of more than one thousand dollars.

F. This section does not apply to any of the following:

1. The transfer by a licensee or permittee to a reclamation facility for destruction.
2. The movement from one facility of a licensee or permittee to another facility of the same licensee or permittee without sale.

G. Notwithstanding any other law, a county, city or town shall not enact an ordinance that is more restrictive than the requirements of this section.

H. A violation of subsection A, paragraph 1 or 6 is a class 2 felony. A violation of subsection A, paragraph 2, 3, 4, 5, 7, 9, 11 or 12 is a class 5 felony. A violation of subsection A, paragraph 8 or 10 is a class 6 felony. A violation of subsection B, D or E is a class 5 felony. A violation of subsection C is a class 5 felony, except that if the violation involves less than a total of fifty grams of ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine, the first violation is a class 2 misdemeanor and the second violation is a class 1 misdemeanor. An enterprise is not criminally accountable for a violation of subsection C unless the conduct constituting the offense is engaged in, authorized, commanded or recklessly tolerated by the directors of the enterprise in any manner or by a high managerial agent acting within the scope of employment.

13-3407. Possession, use, administration, acquisition, sale, manufacture or transportation of dangerous drugs; classification

A. A person shall not knowingly:

1. Possess or use a dangerous drug.
2. Possess a dangerous drug for sale.
3. Possess equipment or chemicals, or both, for the purpose of manufacturing a dangerous drug.
4. Manufacture a dangerous drug.
5. Administer a dangerous drug to another person.
6. Obtain or procure the administration of a dangerous drug by fraud, deceit, misrepresentation or subterfuge.
7. Transport for sale, import into this state or offer to transport for sale or import into this state, sell, transfer or offer to sell or transfer a dangerous drug.

B. A person who violates:

1. Subsection A, paragraph 1 of this section is guilty of a class 4 felony. Unless the drug involved is lysergic acid diethylamide, methamphetamine, amphetamine or phencyclidine or the person was previously convicted of a felony offense or a violation of this section or section 13-3408, the court on motion of the state, considering the nature and circumstances of the offense, for a person not previously convicted of any felony offense or a violation of this section or section 13-3408 may enter judgment of conviction for a class 1 misdemeanor and make disposition accordingly or may place the defendant on probation in accordance with chapter 9 of this title and refrain from designating the offense as a felony or misdemeanor until the probation is successfully terminated. The offense shall be treated as a felony for all purposes until the court enters an order designating the offense a misdemeanor.

2. Subsection A, paragraph 2 of this section is guilty of a class 2 felony.

3. Subsection A, paragraph 3 of this section is guilty of a class 3 felony, except that if the offense involved methamphetamine, the person is guilty of a class 2 felony.

4. Subsection A, paragraph 4 of this section is guilty of a class 2 felony.

5. Subsection A, paragraph 5 of this section is guilty of a class 2 felony.

6. Subsection A, paragraph 6 of this section is guilty of a class 3 felony.

7. Subsection A, paragraph 7 of this section is guilty of a class 2 felony.

C. Except as provided in subsection E of this section, a person who is convicted of a violation of subsection A, paragraph 1, 3 or 6 and who has not previously been convicted of any felony or who has not been sentenced pursuant to section 13-604 or any other law making the convicted person ineligible for probation is eligible for probation.

D. Except as provided in subsection E of this section, if the aggregate amount of dangerous drugs involved in one offense or all of the offenses that are consolidated for trial equals or exceeds the statutory threshold amount, a person who is convicted of a violation of subsection A, paragraph 2, 5 or 7 of this section is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis until the person has served the sentence imposed by the court, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

E. If the person is convicted of a violation of subsection A, paragraph 2, 3, 4 or 7 of this section and the drug involved is methamphetamine, the person shall be sentenced pursuant to section 13-712.

F. A person who is convicted of a violation of subsection A, paragraph 4 of this section or subsection A, paragraph 2, 3 or 7 of this section involving methamphetamine is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis until the person has served the sentence imposed by the court, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

G. If a person is convicted of a violation of subsection A, paragraph 5 of this section, if the drug is administered without the other person's consent, if the other person is under eighteen years of age and if the drug is flunitrazepam, gamma hydroxy butrate or ketamine hydrochloride, the convicted person is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis until the person has served the sentence imposed by the court, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

H. In addition to any other penalty prescribed by this title, the court shall order a person who is convicted of a violation of any provision of this section to pay a fine of not less than one thousand dollars or three times the value as determined by the court of the dangerous drugs involved in or giving rise to the charge, whichever is greater, and not more than the maximum authorized by chapter 8 of this title. A judge shall not suspend any part or all of the imposition of any fine required by this subsection.

I. A person who is convicted of a violation of a provision of this section for which probation or release before the expiration of the sentence imposed by the court is authorized is prohibited from using any marijuana, dangerous drug, narcotic drug or prescription-only drug except as lawfully administered by a health care practitioner and as a condition of any probation or release shall be required to submit to drug testing administered under the supervision of the probation department of the county or the state department of corrections, as appropriate, during the duration of the term of probation or before the expiration of the sentence imposed.

J. If a person who is convicted of a violation of a provision of this section is granted probation, the court shall order that as a condition of probation the person perform not less than three hundred sixty hours of community restitution with an agency or organization providing counseling, rehabilitation or treatment for alcohol or drug abuse, an agency or organization that provides medical treatment to persons who abuse controlled substances, an agency or organization that serves persons who are victims of crime or any other appropriate agency or organization.

13-3407.01. Manufacturing methamphetamine under circumstances that cause physical injury to a minor; classification

A. A person shall not knowingly manufacture methamphetamine under any circumstance that causes physical injury to a minor who is under fifteen years of age.

B. A person who violates this section is guilty of a class 2 felony and is punishable as provided by section 13-604.01.

13-3821. Persons required to register; procedure; identification card; definitions

A. A person who has been convicted of a violation or attempted violation of any of the following offenses or who has been convicted of an offense committed in another jurisdiction that if committed in this state would be a violation or attempted violation of any of the following offenses or an offense that was in effect before September 1, 1978 and that, if committed on or after September 1, 1978, has the same elements of an offense listed in this section or who is required to register by the convicting jurisdiction, within ten days after the conviction or within ten days after entering and remaining in any county of this state, shall register with the sheriff of that county:

1. Unlawful imprisonment pursuant to section 13-1303 if the victim is under eighteen years of age and the unlawful imprisonment was not committed by the child's parent.
2. Kidnapping pursuant to section 13-1304 if the victim is under eighteen years of age and the kidnapping was not committed by the child's parent.
3. Sexual abuse pursuant to section 13-1404 if the victim is under eighteen years of age.
4. Sexual conduct with a minor pursuant to section 13-1405.
5. Sexual assault pursuant to section 13-1406.
6. Sexual assault of a spouse if the offense was committed before the effective date of this amendment to this section.
7. Molestation of a child pursuant to section 13-1410.
8. Continuous sexual abuse of a child pursuant to section 13-1417.
9. Taking a child for the purpose of prostitution pursuant to section 13-3206.
10. Child prostitution pursuant to section 13-3212.
11. Commercial sexual exploitation of a minor pursuant to section 13-3552.
12. Sexual exploitation of a minor pursuant to section 13-3553.
13. Luring a minor for sexual exploitation pursuant to section 13-3554.
14. Sex trafficking of a minor pursuant to section 13-1307.
15. A second or subsequent violation of indecent exposure to a person under the age of fifteen years pursuant to section 13-1402, subsection B.
16. A second or subsequent violation of public sexual indecency to a minor under the age of fifteen years pursuant to section 13-1403, subsection B.
17. A third or subsequent violation of indecent exposure pursuant to section 13-1402.
18. A third or subsequent violation of public sexual indecency pursuant to section 13-1403.
19. A violation of section 13-3822 or 13-3824.

B. Before the person is released from confinement the state department of corrections in conjunction with the department of public safety and each county sheriff shall complete the registration of any person who was convicted of a violation of any offense listed under subsection A of this section. Within three days after the person's release from confinement, the state department of corrections shall forward the registered person's records to the department of public safety and to the sheriff of the county in which the registered person intends to reside. Registration pursuant to this subsection shall be consistent with subsection E of this section.

C. Notwithstanding subsection A of this section, the judge who sentences a defendant for any violation of chapter 14 or 35.1 of this title or for an offense for which there was a finding of sexual motivation pursuant to section 13-118 may require the person who committed the offense to register pursuant to this section.

D. The court may require a person who has been adjudicated delinquent for an act that would constitute an offense specified in subsection A or C of this section to register pursuant to this section. Any duty to register under this subsection shall terminate when the person reaches twenty-five years of age.

E. A person who has been convicted of or adjudicated delinquent and who is required to register in the convicting state for an act that would constitute an offense specified in subsection A or C of this section and who is not a resident of this state shall be required to register pursuant to this section if the person is either:

1. Employed full-time or part-time in this state, with or without compensation, for more than fourteen consecutive days or for an aggregate period of more than thirty days in a calendar year.
2. Enrolled as a full-time or part-time student in any school in this state for more than fourteen consecutive days or for an aggregate period of more than thirty days in a calendar year. For the purposes of this paragraph, "school" means an educational institution of any description, public or private, wherever located in this state.

F. Any duty to register under subsection D or E of this section for a juvenile adjudication terminates when the person reaches twenty-five years of age.

G. The court may order the termination of any duty to register under this section on successful completion of probation if the person was under eighteen years of age when the offense for which the person was convicted was committed.

H. At the time of registering, the person shall sign a statement in writing giving such information as required by the director of the department of public safety, including all names by which the person is known. The sheriff shall fingerprint and photograph the person and within three days thereafter shall send copies of the statement, fingerprints and photographs to the criminal identification section within the department of public safety and the chief of police, if any, of the place where the person resides. The information that is required by this subsection shall include the physical location of the person's residence and the person's address. If the person has a place of residence that is different from the person's address, the person shall provide the person's address, the physical location of the person's residence and the name of the owner of the residence if the residence is privately owned and not offered for rent or lease. If the person receives mail at a post office box, the person shall provide the location and number of the post office box. If the person does not have an address or a permanent place of residence, the person shall provide a description and physical location of any temporary residence.

I. On the person's initial registration and every year after the person's initial registration, the person shall obtain a new nonoperating identification license or a driver license from the motor vehicle division in the department of transportation and shall carry a valid nonoperating identification license or a driver license. Notwithstanding sections 28-3165 and 28-3171, the license shall be valid for one year from the date of issuance, and the person shall submit to the department of transportation proof of the person's address and place of residence. The motor vehicle division shall annually update the person's photograph and shall make a copy of the photograph available to the criminal identification section of the department of public safety or to any law enforcement agency.

J. Except as provided in subsection E or K of this section, the clerk of the superior court in the county in which a person has been convicted of a violation of any offense listed under subsection A of this

section or has been ordered to register pursuant to subsection C or D of this section shall notify the sheriff in that county of the conviction within ten days after entry of the judgment.

K. Within ten days after entry of judgment, a court not of record shall notify the arresting law enforcement agency of an offender's conviction of a violation of section 13-1402. Within ten days after receiving this information, the law enforcement agency shall determine if the offender is required to register pursuant to this section. If the law enforcement agency determines that the offender is required to register, the law enforcement agency shall provide the information required by section 13-3825 to the department of public safety and shall make community notification as required by law.

L. A person who is required to register pursuant to this section because of a conviction for the unlawful imprisonment of a minor or the kidnapping of a minor is required to register, absent additional or subsequent convictions, for a period of ten years from the date that the person is released from prison, jail, probation, community supervision or parole and the person has fulfilled all restitution obligations. Notwithstanding this subsection, a person who has a prior conviction for an offense for which registration is required pursuant to this section is required to register for life.

M. A person who is required to register pursuant to this section and who is a student at a public or private institution of postsecondary education or who is employed, with or without compensation, at a public or private institution of postsecondary education or who carries on a vocation at a public or private institution of postsecondary education shall notify the county sheriff having jurisdiction of the institution of postsecondary education. The person required to register pursuant to this section shall also notify the sheriff of each change in enrollment or employment status at the institution.

N. For the purposes of this section:

1. "Address" means the location at which the person receives mail.
2. "Residence" means the person's dwelling place, whether permanent or temporary.

13-3822. Notice of moving from place of residence where living or change of name; forwarding of information; definitions

A. Within seventy-two hours, excluding weekends and legal holidays, after moving from the person's residence within a county or after changing the person's name, a person who is required to register under this article shall inform the sheriff in person and in writing of the person's new residence, address or new name. If the person moves to a location that is not a residence and the person receives mail anywhere, including a post office box, the person shall notify the sheriff of the person's address. Within three days after receipt of such information, the sheriff shall forward it to the criminal identification section within the department of public safety and the chief of police, if any, of the place from which the person moves, and shall forward a copy of the statement, fingerprints and photograph of the person to the chief of police, if any, of the place to which the person has moved.

B. Within seventy-two hours after a person moves from a county in which the person is registered, the person shall notify in writing the sheriff of the county from which the person moves. If the person is subject to community notification requirements, the sheriff of the county from which the person moves shall advise the local law enforcement agency of the county to which the person moves of the move. If the person moves out of this state, the sheriff of the county from which the person moves shall advise the local law enforcement agency in the jurisdiction to which the person moves. The local law enforcement agency shall contact the department of public safety following ten days after being notified to determine if the person has reregistered. If the person has not reregistered, the local law enforcement agency shall notify the local law enforcement agency in the county in which the person last resided. The local law enforcement agency in the county in which the person last resided shall conduct an investigation and shall submit a report to the appropriate county attorney.

C. For the purposes of this section:

1. "Address" means the location at which the person receives mail.
2. "Residence" means the person's dwelling place, whether permanent or temporary.

13-3824. Violation; classification; assessment

A. A person who is subject to registration under this article and who fails to comply with the requirements of this article is guilty of a class 4 felony.

B. Notwithstanding subsection A of this section, a person who fails to comply with section 13-3821, subsection I is guilty of a class 1 misdemeanor and, in addition to any other penalty prescribed by law, the court shall order the person to pay an additional assessment of two hundred fifty dollars. This assessment is not subject to any surcharge. The court shall transmit the monies received pursuant to this subsection to the county treasurer. The county treasurer shall transmit the monies received to the state treasurer. The state treasurer shall deposit the monies received in the sex offender monitoring fund established by section 13-3828. Notwithstanding any other law, the court shall not waive the assessment imposed pursuant to this subsection.

13-3875. Cross-certification of federal peace officers; policy; powers; qualifications; liability; records

A. The sheriff of each county shall develop and adopt a policy on cross-certification of federal peace officers, including whether cross-certification shall be permitted in that county.

B. A federal peace officer who is employed by an agency of the United States and who has completed the basic training curriculum for the officer's agency shall possess and exercise all law enforcement powers of peace officers in this state for one year, including, if directed by the officer's employer, the capability to enforce the criminal laws of this state if the federal peace officer:

1. Submits to the sheriff a written request for certification as a peace officer in this state.
2. Submits evidence that the officer has been certified as a federal peace officer, is authorized by federal law to engage in or supervise the prevention, detection, investigation or prosecution of a violation of federal law and is authorized by federal law to make arrests, serve warrants and carry firearms.

C. Each federal peace officer who requests cross-certification may submit to the sheriff a written request for certification as a peace officer in this state pursuant to subsection B. The cross-certification remains in effect for one year from the date on which the certification was authorized by the sheriff.

D. Neither the state nor any political subdivision is liable for any acts or failure to act by a federal peace officer.

E. The Arizona peace officer standards and training board shall maintain records of all federal peace officers who are certified as peace officers in this state.

13-3918. Time of execution and return

A. A search warrant shall be executed within five calendar days from its issuance and returned to a magistrate within three court business days after the warrant is executed. Upon expiration of the five day period, the warrant is void unless the time is extended by a magistrate. The time for execution of the warrant may be extended for no longer than five calendar days. The documents and records of the court relating to the search warrant need not be open to the public until the return of the warrant or the warrant is deemed void pursuant to this section unless a magistrate orders the time to be shortened or lengthened for good cause. Thereafter, if the warrant has been executed, the documents and records shall be open to the public as a judicial record.

B. If a duplicate original search warrant has been executed, the peace officer who executed the warrant shall enter the exact time of its execution on its face.

13-3967. Release on bailable offenses before trial: definition

A. At his appearance before a judicial officer, any person who is charged with a public offense that is bailable as a matter of right shall be ordered released pending trial on his own recognizance or on the execution of bail in an amount specified by the judicial officer.

B. In determining the method of release or the amount of bail, the judicial officer, on the basis of available information, shall take into account all of the following:

1. The views of the victim.
2. The nature and circumstances of the offense charged.
3. The weight of evidence against the accused.
4. The accused's family ties, employment, financial resources, character and mental condition.
5. The results of any drug test submitted to the court.
6. Whether the accused is using any substance if its possession or use is illegal pursuant to chapter 34 of this title.
7. Whether the accused violated section 13-3407, subsection A, paragraph 2, 3, 4 or 7 involving methamphetamine or section 13-3407.01.
8. The length of residence in the community.
9. The accused's record of arrests and convictions.
10. The accused's record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.

C. If a judicial officer orders the release of a defendant who is charged with a felony either on his own recognizance or on bail, the judicial officer shall condition the defendant's release on the defendant's good behavior while so released. On a showing of probable cause that the defendant committed any offense during the period of release, a judicial officer may revoke the defendant's release pursuant to section 13-3968.

D. After providing notice to the victim pursuant to section 13-4406, a judicial officer may impose any of the following conditions on a person who is released on his own recognizance or on bail:

1. Place the person in the custody of a designated person or organization agreeing to supervise him.
2. Place restrictions on the person's travel, associates or place of abode during the period of release.
3. Require the deposit with the clerk of the court of cash or other security, such deposit to be returned on the performance of the conditions of release.
4. Prohibit the person from possessing any dangerous weapon or engaging in certain described activities or indulging in intoxicating liquors or certain drugs.
5. Require the person to report regularly to and remain under the supervision of an officer of the court.
6. Impose any other conditions deemed reasonably necessary to assure appearance as required including a condition requiring that the person return to custody after specified hours.

E. In addition to any of the conditions a judicial officer may impose pursuant to subsection D of this section, the judicial officer shall impose both of the following conditions on a person who is charged with a felony violation of chapter 14 or 35.1 of this title and who is released on his own recognizance or on bail:

1. Electronic monitoring where available.
2. A condition prohibiting the person from having any contact with the victim.

F. The judicial officer who authorizes the release of the person charged on his own recognizance or on bail shall do all of the following:

1. Issue an appropriate order containing statements of the conditions imposed.
2. Inform the person of the penalties that apply to any violation of the conditions of release.
3. Advise the person that a warrant for his arrest may be issued immediately on any violation of the conditions of release.

G. At any time after providing notice to the victim pursuant to section 13-4406, the judicial officer who orders the release of a person on any condition specified in this section or the court in which a prosecution is pending may amend the order to employ additional or different conditions of release, including either an increase or reduction in the amount of bail. On application, the defendant shall be entitled to have the conditions of release reviewed by the judicial officer who imposed them or by the court in which the prosecution is pending. Reasonable notice of the application shall be given to the county attorney and the victim.

H. Any information that is stated or offered in connection with any order pursuant to this section need not conform to the rules pertaining to admissibility of evidence in a court of law.

I. This section does not prevent the disposition of any case or class of cases by forfeiture of bail or collateral security if such disposition is authorized by the court.

J. A judicial officer who orders the release of a juvenile who has been transferred to the criminal division of the superior court pursuant to section 8-327 or who has been charged as an adult pursuant to section 13-501 shall notify the appropriate school district on the release of the juvenile from custody.

K. For the purposes of this section and section 13-3968, "judicial officer" means any person or court authorized pursuant to the constitution or laws of this state to bail or otherwise release a person before trial or sentencing or pending appeal.

13-4013. Counsel assigned in criminal proceeding or insanity hearings; investigators and expert witnesses; compensation

A. If counsel is appointed by the court and represents the defendant in either a criminal proceeding or insanity hearing, counsel shall be paid by the county in which the court presides, except that in those matters in which a public defender is appointed, no compensation shall be paid by the county.

Compensation for services rendered to the defendant shall be in an amount that the court in its discretion deems reasonable, considering the services performed.

B. If a person is charged with a felony offense the court may on its own initiative and shall on application of the defendant and a showing that the defendant is financially unable to pay for such services appoint investigators and expert witnesses as are reasonably necessary to adequately present a defense at trial and at any subsequent proceeding.

C. Compensation for investigators and expert witnesses who are appointed pursuant to subsection B of this section shall be at such rates as the county contracts for such services. If a necessary expert witness represents a discipline or has a skill that is not then the subject of a county contract, the county may either promptly procure those services pursuant to section 11-254.01 or ask the court to establish a reasonable fee for that witness. If no investigator or expert witness who is under contract with the county to provide services is available and the defendant is unable to obtain such services at the county rate, the court shall establish a reasonable fee for the expert witness or investigator providing the service.

13-4062. Anti-marital fact privilege; other privileged communications

A person shall not be examined as a witness in the following cases:

1. A husband for or against his wife without her consent, nor a wife for or against her husband without his consent, as to events occurring during the marriage, nor can either, during the marriage or afterwards, without consent of the other, be examined as to any communication made by one to the other during the marriage. These exceptions do not apply in a criminal action or proceeding for a crime committed by the husband against the wife, or by the wife against the husband, nor in a criminal action or proceeding against the husband for abandonment, failure to support or provide for or failure or neglect to furnish the necessities of life to the wife or the minor children. Either spouse, at his or her request, but not otherwise, may be examined as a witness for or against the other in a prosecution for an offense listed in section 13-604, subsection W, paragraph 4, for bigamy or adultery, committed by either spouse, or for sexual assault committed by the husband.
2. An attorney, without consent of the attorney's client, as to any communication made by the client to the attorney, or the attorney's advice given in the course of professional employment.
3. A clergyman or priest, without consent of the person making the confession, as to any confession made to the clergyman or priest in his professional character in the course of discipline enjoined by the church to which the clergyman or priest belongs.
4. A physician or surgeon, without consent of the physician's or surgeon's patient, as to any information acquired in attending the patient which was necessary to enable the physician or surgeon to prescribe or act for the patient.

13-4401. Definitions

In this chapter, unless the context otherwise requires:

1. "Accused" means a person who has been arrested for committing a criminal offense and who is held for an initial appearance or other proceeding before trial.
2. "Appellate proceeding" means any contested matter before the state court of appeals, the state supreme court, a federal court of appeals or the United States supreme court.
3. "Arrest" means the actual custodial restraint of a person or the person's submission to custody.
4. "Court" means all state, county and municipal courts in this state.
5. "Crime victim advocate" means a person who is employed or authorized by a public entity or a private entity that receives public funding primarily to provide counseling, treatment or other supportive assistance to crime victims.
6. "Criminal offense" means conduct that gives a peace officer or prosecutor probable cause to believe that one of the following has occurred:
 - (a) A felony.
 - (b) A misdemeanor involving physical injury, the threat of physical injury or a sexual offense.
7. "Criminal proceeding" means any hearing, argument or other matter that is scheduled by and held before a trial court but does not include any deposition, lineup, grand jury proceeding or other matter that is not held in the presence of the court.
8. "Custodial agency" means any law enforcement officer or agency, a sheriff or municipal jailer, the state department of corrections or a secure mental health facility that has custody of a person who is arrested or in custody for a criminal offense.
9. "Defendant" means a person or entity that is formally charged by complaint, indictment or information of committing a criminal offense.
10. "Final disposition" means the ultimate termination of the criminal prosecution of a defendant by a trial court, including dismissal, acquittal or imposition of a sentence.
11. "Immediate family" means a victim's spouse, parent, child, sibling, grandparent or lawful guardian.
12. "Lawful representative" means a person who is designated by the victim or appointed by the court and who acts in the best interests of the victim.
13. "Post-arrest release" means the discharge of the accused from confinement on recognizance, bond or other condition.
14. "Post-conviction release" means parole, work furlough, community supervision, probation if the court waived community supervision pursuant to section 13-603, home arrest or any other permanent, conditional or temporary discharge from confinement in the custody of the state department of corrections or a sheriff or from confinement in a municipal jail or a secure mental health facility.
15. "Post-conviction relief proceeding" means a contested argument or evidentiary hearing that is held in open court and that involves a request for relief from a conviction or sentence.
16. "Prisoner" means a person who has been convicted of a criminal offense against a victim and who has been sentenced to the custody of the sheriff, the state department of corrections, a municipal jail or a secure mental health facility.
17. "Release" means no longer in the custody of a custodial agency and includes transfer from one custodial agency to another custodial agency.

18. "Rights" means any right that is granted to the victim by the laws of this state.

19. "Victim" means a person against whom the criminal offense has been committed, including a minor, or if the person is killed or incapacitated, the person's spouse, parent, child, grandparent or sibling, any other person related to the person by consanguinity or affinity to the second degree or any other lawful representative of the person, except if the spouse, parent, child, grandparent, sibling, other person related to the person by consanguinity or affinity to the second degree or other lawful representative is in custody for an offense or is the accused.

13-4505. Appointment of experts; costs

- A. If the court determines pursuant to section 13-4503 that reasonable grounds exist for a competency examination, the court shall appoint two or more mental health experts, at least one of whom shall be a physician specializing in psychiatry licensed pursuant to title 32, chapter 13 or 17, to examine the defendant, issue a report and, if necessary, testify regarding the defendant's competency. The state and the defendant may stipulate to the appointment of only one expert.
- B. The court may order the defendant to submit to physical, neurological or psychological examinations, if necessary, to adequately determine the defendant's mental condition.
- C. The court shall order the defendant to pay the costs of the court ordered examination, except that if the court finds the defendant is indigent or otherwise unable to pay all or any part of the costs or if the prosecution requested the examination, the court shall order the county to pay the costs of the examination or, if the case is referred by a municipal court judge, the court shall order the city to pay the costs of the examination.
- D. This section does not prohibit any party from retaining its own expert to conduct any additional examinations at its own expense.
- E. A person who is appointed as a mental health expert or clinical liaison is entitled to immunity, except that the mental health expert or clinical liaison may be liable for intentional, wanton or grossly negligent acts that are done in the performance of the expert's or liaison's duties.

13-4512. Treatment order; commitment

(L05, Ch. 252, sec. 3. Eff. 7/1/06)

A. The court may order a defendant to undergo out of custody competency restoration treatment. If the court determines that confinement is necessary for treatment, the court shall commit the defendant for competency restoration treatment to the competency restoration treatment program designated by the county board of supervisors.

B. If the county board of supervisors has not designated a program to provide competency restoration treatment, the court may commit the defendant for competency restoration treatment to the Arizona state hospital or any other facility that is approved by the court.

C. A county board of supervisors that has designated a county restoration treatment program may enter into contracts with providers, including the Arizona state hospital, for inpatient, in custody competency restoration treatment. A county competency restoration treatment program may do the following:

1. Provide competency restoration treatment to a defendant in the county jail, including inpatient treatment.

2. Obtain court orders to transport the defendant to other providers, including the Arizona state hospital, for inpatient, in custody competency restoration treatment.

D. In determining the type and location of the treatment, the court shall select the least restrictive treatment alternative after considering the following:

1. If confinement is necessary for treatment.

2. The likelihood that the defendant is a threat to public safety.

E. An order entered pursuant to this section shall state if the defendant is incompetent to refuse treatment, including medication, pursuant to section 13-4511.

F. A defendant shall pay the cost of inpatient, in custody competency restoration treatment unless otherwise ordered by the court. If the court finds the defendant is unable to pay all or a portion of the costs of inpatient, in custody treatment, the state shall pay the costs of inpatient, in custody competency restoration treatment at the Arizona state hospital that are incurred until:

1. Seven days, excluding Saturdays, Sundays or other legal holidays, after the hospital submits a report to the court stating that the defendant has regained competency or that there is no substantial probability that the defendant will regain competency within twenty-one months after the date of the original finding of incompetency.

2. The treatment order expires.

3. Seven days, excluding Saturdays, Sundays or other legal holidays, after the charges are dismissed.

G. The county, or the city if the competency proceedings arise out of a municipal court proceeding, shall pay the hospital costs that are incurred after the period of time designated in subsection F of this section and shall also pay for the costs of inpatient, in custody competency restoration treatment in court approved programs that are not programs at the Arizona state hospital.

H. Payment for the cost of outpatient community treatment shall be the responsibility of the defendant unless:

1. The defendant is enrolled in a program which covers the treatment and which has funding available for the provision of treatment to the defendant, and the defendant is eligible to receive the treatment. Defendants in these circumstances may be required to share in the cost of the treatment if cost sharing is required by the program in which the defendant is enrolled.

2. The court finds that the defendant is unable to pay all or a portion of treatment costs or that outpatient treatment is not otherwise available to the defendant. For defendants in these circumstances, all or a portion of the costs of outpatient community treatment shall be borne by the county or the city if the competency proceedings arise out of a municipal court proceeding.

I. A treatment order issued pursuant to this section is valid for one hundred eighty days or until one of the following occurs:

1. The treating facility submits a report that the defendant has regained competency or that there is no substantial probability that the defendant will regain competency within twenty-one months after the date of the original finding of incompetency.

2. The charges are dismissed.

3. The maximum sentence for the offense charged has expired.

13-4512. Treatment order; commitment

(L05, Ch. 252, sec. 2)

A. The court may order a defendant to undergo out of custody competency restoration treatment. If the court determines that confinement is necessary for treatment, the court shall commit the defendant for competency restoration treatment to the competency restoration treatment program designated by the county board of supervisors.

B. If the county board of supervisors has not designated a program to provide competency restoration treatment, the court may commit the defendant for competency restoration treatment to the Arizona state hospital, subject to funding appropriated by the legislature to the Arizona state hospital for inpatient competency restoration treatment services, or to any other facility that is approved by the court.

C. A county board of supervisors that has designated a county restoration treatment program may enter into contracts with providers, including the Arizona state hospital, for inpatient, in custody competency restoration treatment. A county competency restoration treatment program may do the following:

1. Provide competency restoration treatment to a defendant in the county jail, including inpatient treatment.
2. Obtain court orders to transport the defendant to other providers, including the Arizona state hospital, for inpatient, in custody competency restoration treatment.

D. In determining the type and location of the treatment, the court shall select the least restrictive treatment alternative after considering the following:

1. If confinement is necessary for treatment.
2. The likelihood that the defendant is a threat to public safety.
3. The defendant's participation in and cooperation during an outpatient examination of competency to stand trial conducted pursuant to section 13-4507.
4. The defendant's willingness to submit to outpatient competency restoration treatment as a condition of pretrial release, if the defendant is eligible for pretrial release.

E. An order entered pursuant to this section shall state if the defendant is incompetent to refuse treatment, including medication, pursuant to section 13-4511.

F. A defendant shall pay the cost of inpatient, in custody competency restoration treatment unless otherwise ordered by the court. If the court finds the defendant is unable to pay all or a portion of the costs of inpatient, in custody treatment, the state shall pay the costs of inpatient, in custody competency restoration treatment at the Arizona state hospital that are incurred until:

1. Seven days, excluding Saturdays, Sundays or other legal holidays, after the hospital submits a report to the court stating that the defendant has regained competency or that there is no substantial probability that the defendant will regain competency within twenty-one months after the date of the original finding of incompetency.
2. The treatment order expires.
3. Seven days, excluding Saturdays, Sundays or other legal holidays, after the charges are dismissed.

G. The county, or the city if the competency proceedings arise out of a municipal court proceeding, shall pay the hospital costs that are incurred after the period of time designated in subsection F of this section and shall also pay for the costs of inpatient, in custody competency restoration treatment in court approved programs that are not programs at the Arizona state hospital.

H. Payment for the cost of outpatient community treatment shall be the responsibility of the defendant unless:

1. The defendant is enrolled in a program which covers the treatment and which has funding available for the provision of treatment to the defendant, and the defendant is eligible to receive the treatment. Defendants in these circumstances may be required to share in the cost of the treatment if cost sharing is required by the program in which the defendant is enrolled.

2. The court finds that the defendant is unable to pay all or a portion of treatment costs or that outpatient treatment is not otherwise available to the defendant. For defendants in these circumstances, all or a portion of the costs of outpatient community treatment shall be borne by the county or the city if the competency proceedings arise out of a municipal court proceeding.

I. A treatment order issued pursuant to this section is valid for one hundred eighty days or until one of the following occurs:

1. The treating facility submits a report that the defendant has regained competency or that there is no substantial probability that the defendant will regain competency within twenty-one months after the date of the original finding of incompetency.

2. The charges are dismissed.

3. The maximum sentence for the offense charged has expired.

4. A qualified physician who represents the Arizona state hospital determines that the defendant is not suffering from a mental illness and is competent to stand trial.

J. The Arizona state hospital shall collect census data for adult restoration to competency treatment programs to establish maximum capacity and the allocation formula required pursuant to section 36-206, subsection D. The Arizona state hospital or the department of health services is not required to provide restoration to competency treatment that exceeds the funded capacity. If the Arizona state hospital reaches its funded capacity in either or both the adult male or adult female restoration to competency treatment programs, the superintendent of the state hospital shall establish a waiting list for admission based on the date of the court order issued pursuant to this section.

13-4901. Definitions

In this chapter, unless the context otherwise requires:

1. "Armed nuclear security guard" means a security guard who works at a commercial nuclear generating station, who is employed as part of the security plan approved by the nuclear regulatory commission and who meets the requirements mandated by the nuclear regulatory commission for carrying a firearm.
2. "Commercial nuclear generating station" means an electric power generating facility that is owned by a public service corporation, a municipal corporation or a consortium of public service corporations or municipal corporations and that produces electricity by means of a nuclear reactor and includes the property on which the facility is located.
3. "Enter" means the intrusion of any part of any instrument or any part of a person's body inside of a commercial nuclear generating station or a structure or fenced yard of a commercial nuclear generating station.
4. "Entering or remaining unlawfully" means an act by a person who enters or remains in or on a commercial nuclear generating station or a structure or fenced yard of a commercial nuclear generating station if that person's intent for entering or remaining is not licensed, authorized or otherwise privileged.
5. "Structure or fenced yard" means any structure, fenced yard, wall, building or other similar barrier or any combination of structures, fenced yards, walls, buildings or other barriers that surrounds a commercial nuclear generating station and that is posted with signage indicating it is a felony to trespass.

13-4902. Criminal trespass on commercial nuclear generating station; classification

A. A person commits criminal trespass on a commercial nuclear generating station by knowingly either:

1. Entering or remaining unlawfully in or on a commercial nuclear generating station.
2. Entering or remaining unlawfully within a structure or fenced yard of a commercial nuclear generating station.

B. Criminal trespass on a commercial nuclear generating station is a class 4 felony.

13-4903. Use of force; armed nuclear security guards

A. An armed nuclear security guard is justified in using physical force against another person at a commercial nuclear generating station or structure or fenced yard of a commercial nuclear generating station if the armed nuclear security guard reasonably believes that such force is necessary to prevent or terminate the commission or attempted commission of criminal damage under section 13-1602, subsection A, paragraph 3 and subsection B, paragraph 1, misconduct involving weapons under section 13-3102, subsection A, paragraph 13 or criminal trespass on a commercial nuclear generating station under section 13-4902.

B. Notwithstanding sections 13-403, 13-404, 13-405, 13-406, 13-408, 13-409, 13-410 and 13-411, an armed nuclear security guard is justified in using physical force up to and including deadly physical force against another person at a commercial nuclear generating station or structure or fenced yard of a commercial nuclear generating station if the armed nuclear security guard reasonably believes that such force is necessary to:

1. Prevent the commission of manslaughter under section 13-1103, second or first degree murder under section 13-1104 or 13-1105, aggravated assault under section 13-1204, subsection A, paragraph 1 or 2, kidnapping under section 13-1304, burglary in the second or first degree under section 13-1507 or 13-1508, arson of a structure or property under section 13-1703, arson of an occupied structure under section 13-1704, armed robbery under section 13-1904 or an act of terrorism under section 13-2308.01.

2. Defend oneself or a third person from the use or imminent use of deadly physical force.

C. Notwithstanding any other provision of this chapter, an armed nuclear security guard is justified in threatening to use physical or deadly physical force if and to the extent a reasonable armed nuclear security guard believes it necessary to protect oneself or others against another person's potential use of physical force or deadly physical force.

D. An armed nuclear security guard is not subject to civil liability for engaging in conduct that is otherwise justified pursuant to this chapter.

13-4904. Detention authority; armed nuclear security guards

A. An armed nuclear security guard, with reasonable belief, may detain in or on a commercial nuclear generating station or a structure or fenced yard of a commercial nuclear generating station in a reasonable manner and for a reasonable time any person who is suspected of or attempting to commit manslaughter under section 13-1103, second or first degree murder under section 13-1104 or 13-1105, aggravated assault under section 13-1204, subsection A, paragraph 1 or 2, kidnapping under section 13-1304, burglary in the second or first degree under section 13-1507 or 13-1508, criminal damage under section 13-1602, subsection A, paragraph 3 and subsection B, paragraph 1, arson of a structure or property under section 13-1703, arson of an occupied structure under section 13-1704, armed robbery under section 13-1904, an act of terrorism under section 13-2308.01, misconduct involving weapons under section 13-3102, subsection A, paragraph 13 or criminal trespass on a commercial nuclear generating station under section 13-4902 for the purpose of summoning a law enforcement officer.

B. Reasonable belief of an armed nuclear security guard is a defense to a civil or criminal action against an armed nuclear security guard for false arrest, false or unlawful imprisonment or wrongful detention.